

made available. But they have taken that position with no success. I would expect the two former chairmen of the committees and the vice chairman would not take that position if they believed it would compromise intelligence sources and methods.

Let me quote, if I might, Bill Harvey, a member of the Family Steering Committee for the 9/11 independent commission. He lost his wife on 9/11. She was killed in the Trade Center. He is pretty critical of both the White House and Congress.

The White House's refusal to produce the 28 pages is just one more example of its manipulation of intelligence for political purposes, but the Congress's reluctance to remedy the situation by declassifying the redacted information is equally troubling. The United States of America deserves to know the true nature of its supposed allies, and the families of the victims of the September 11 attacks deserve to know what our Government new about the terrorists that took their lives.

That is the key. After this commission has completed its work, the inquiry is complete, and we have knowledge and information about whether another government provided financial support and other support to terrorists who attacked this country, do we have a right to know who that government is, which government it is, and whether that government still provides support to terrorists who still would like to commit an act of terrorism against this country and who would like to murder innocent Americans?

The American people have a right to know what is in that redacted portion of the report. If there is 5 percent of it, as Senator SHELBY and Senator GRAHAM have suggested, that ought to be withheld, I understand that. But if the bulk, as they have indicated, ought to be made available to the American people, I believe it ought to be made available now.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized to make a point of order.

Mr. MCCONNELL. Mr. President, I make a point of order that the amendment is not germane under the requirements of rule XVI.

Mr. DORGAN. Mr. President, I move to suspend rule XVI of the standing rules of the Senate during consideration of H.R. 2800 for the consideration of amendment No. 2000.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to suspend rule XVI of the standing rules of the Senate in relation to amendment No. 2000.

The clerk will call the roll.

The assistant legislative clerk proceeded to called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator

from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 54, as follows:

[Rollcall Vote No. 415 Leg.]

#### YEAS—43

Akaka	Dorgan	McCain
Baucus	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Graham (FL)	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Sarbanes
Clinton	Kohl	Schumer
Conrad	Landrieu	Specter
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lincoln	

#### NAYS—54

Alexander	DeWine	Lugar
Allard	Dole	McConnell
Allen	Domenici	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Feinstein	Roberts
Brownback	Fitzgerald	Rockefeller
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Inouye	Thomas
Craig	Kyl	Voinovich
Crapo	Lott	Warner

#### NOT VOTING—3

Edwards	Kerry	Lieberman
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The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 54. Two-thirds of the Senators voting not having voted in the affirmative, the motion to suspend rule XVI pursuant to notice previously given in writing is rejected. The point of order is sustained and the amendment falls.

#### HEALTHY FORESTS RESTORATION ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 1904, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in *italic*.)

[H.R. 1904

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### [SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Healthy Forests Restoration Act of 2003".

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents.

[Sec. 2. Purpose.

#### [TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LANDS

[Sec. 101. Definitions.

[Sec. 102. Authorized hazardous fuels reduction projects.

[Sec. 103. Prioritization for communities and watersheds.

[Sec. 104. Environmental analysis.

[Sec. 105. Special Forest Service administrative review process.

[Sec. 106. Special requirements regarding judicial review of authorized hazardous fuels reduction projects.

[Sec. 107. Injunctive relief for agency action to restore fire-adapted forest or rangeland ecosystems.

[Sec. 108. Rules of construction.

#### [TITLE II—BIOMASS

[Sec. 201. Findings.

[Sec. 202. Definitions.

[Sec. 203. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and petroleum-based product substitutes.

[Sec. 204. Reporting requirement.

#### [TITLE III—WATERSHED FORESTRY ASSISTANCE

[Sec. 301. Findings and purpose.

[Sec. 302. Establishment of watershed forestry assistance program.

#### [TITLE IV—INSECT INFESTATIONS

[Sec. 401. Definitions, findings, and purpose.

[Sec. 402. Accelerated information gathering regarding bark beetles, including Southern pine beetles, hemlock woolly adelgid, emerald ash borers, red oak borers, and white oak borers.

[Sec. 403. Applied silvicultural assessments.

[Sec. 404. Relation to other laws.

[Sec. 405. Authorization of appropriations.

#### [TITLE V—HEALTHY FORESTS RESERVE PROGRAM

[Sec. 501. Establishment of healthy forests reserve program.

[Sec. 502. Eligibility and enrollment of lands in program.

[Sec. 503. Conservation plans.

[Sec. 504. Financial assistance.

[Sec. 505. Technical assistance.

[Sec. 506. Safe harbor.

[Sec. 507. Authorization of appropriations.

#### [TITLE VI—MISCELLANEOUS PROVISIONS

[Sec. 601. Forest stands inventory and monitoring program to improve detection of and response to environmental threats.

#### [SEC. 2. PURPOSE.

[The purpose of this Act is—

[(1) to reduce the risks of damage to communities, municipal water supplies, and some at-risk Federal lands from catastrophic wildfires;

[(2) to authorize grant programs to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes and other commercial purposes;

[(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

[(4) to promote systematic information gathering to address the impact of insect infestations on forest and rangeland health;

[(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

[(6) to protect, restore, and enhance degraded forest ecosystem types in order to promote the recovery of threatened and endangered species as well as improve biological diversity and enhance carbon sequestration.

# **[TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LANDS]**

## **[SEC. 101. DEFINITIONS.]**

[In this title:

[(1) **AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECT.**—The term “authorized hazardous fuels reduction project” means a hazardous fuels reduction project described in subsection (a) of section 102, subject to the remainder of such section, that is planned and conducted using the process authorized by section 104.

[(2) **CONDITION CLASS 2.**—The term “condition class 2”, with respect to an area of Federal lands, refers to the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled “Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management” (RMRS-87), dated April 2000, under which—

[(A) fire regimes on the lands have been moderately altered from their historical range;

[(B) there exists a moderate risk of losing key ecosystem components from fire;

[(C) fire frequencies have departed (either increased or decreased) from historical frequencies by one or more return interval, which results in moderate changes to fire size, frequency, intensity, severity, or landscape patterns; and

[(D) vegetation attributes have been moderately altered from their historical range.

[(3) **CONDITION CLASS 3.**—The term “condition class 3”, with respect to an area of Federal lands, refers to the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (2), under which—

[(A) fire regimes on the lands have been significantly altered from their historical range;

[(B) there exists a high risk of losing key ecosystem components from fire;

[(C) fire frequencies have departed from historical frequencies by multiple return intervals, which results in dramatic changes to fire size, frequency, intensity, severity, or landscape patterns; and

[(D) vegetation attributes have been significantly altered from their historical range.

[(4) **DAY.**—The term “day” means a calendar day, except that, if a deadline imposed by this title would expire on a nonbusiness day, the deadline will be extended to the end of the next business day.

[(5) **DECISION DOCUMENT.**—The term “decision document” means a decision notice or a record of decision, as those terms are used in applicable regulations of the Council on Environmental Quality and the Forest Service Handbook.

[(6) **FEDERAL LANDS.**—The term “Federal lands” means—

[(A) National Forest System lands; and

[(B) public lands administered by the Secretary of the Interior, acting through the Bureau of Land Management.

[(7) **HAZARDOUS FUELS REDUCTION PROJECT.**—The term “hazardous fuels reduction project” refers to the measures and methods described in the definition of “appropriate tools” contained in the glossary of the Implementation Plan.

[(8) **IMPLEMENTATION PLAN.**—The term “Implementation Plan” means the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the conference report for the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106-646).

[(9) **INTERFACE COMMUNITY AND INTERMIX COMMUNITY.**—The terms “interface community” and “intermix community” have the meanings given those terms on page 753 of volume 66 of the Federal Register, as published on January 4, 2001.

[(10) **MUNICIPAL WATER SUPPLY SYSTEM.**—The term “municipal water supply system” means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, or other surface facilities and systems constructed or installed for the impoundment, storage, transportation, or distribution of drinking water for a community.

[(11) **SECRETARY CONCERNED.**—The term “Secretary concerned” means the Secretary of Agriculture with respect to National Forest System lands and the Secretary of the Interior with respect to public lands administered by the Bureau of Land Management. Any reference in this title to the “Secretary concerned”, the “Secretary of Agriculture”, or the “Secretary of the Interior” includes the designee of the Secretary concerned.

[(12) **THREATENED AND ENDANGERED SPECIES HABITAT.**—The term “threatened and endangered species habitat” means Federal lands identified in the listing decision or critical habitat designation as habitat for a threatened species or an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

## **[SEC. 102. AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.]**

[(a) **AUTHORIZED PROJECTS.**—Subject to the remainder of this section, the Secretary concerned may utilize the process authorized by section 104 to plan and conduct hazardous fuels reduction projects on any of the following Federal lands:

[(1) Federal lands located in an interface community or intermix community.

[(2) Federal lands located in such proximity to an interface community or intermix community that there is a significant risk that the spread of a fire disturbance event from those lands would threaten human life and property in the interface community or intermix community.

[(3) Condition class 3 or condition class 2 Federal lands located in such proximity to a municipal water supply system, or to a perennial stream feeding a municipal water supply system, that a significant risk exists that a fire disturbance event would have substantial adverse effects on the water quality of the municipal water supply, including the risk to water quality posed by erosion following such a fire disturbance event.

[(4) Condition class 3 or condition class 2 Federal lands identified by the Secretary concerned as an area where windthrow or blowdown, or the existence or threat of disease or insect infestation, pose a significant threat to forest or rangeland health or adjacent private lands.

[(5) Federal lands not covered by paragraph (1), (2), (3), or (4) that contain threat-

ened and endangered species habitat, but only if—

[(A) natural fire regimes on such lands are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or its habitat in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or in a decision document under such section determining a species to be an endangered species or a threatened species or designating critical habitat;

[(B) the project will provide enhanced protection from catastrophic wildfire for the species or its habitat; and

[(C) the Secretary complies with any applicable guidelines specified in the species recovery plan prepared under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

[(b) **RELATION TO AGENCY PLANS.**—An authorized hazardous fuels reduction project shall be planned and conducted in a manner consistent with the land and resource management plan or land use plan applicable to the Federal lands covered by the project.

[(c) **ACREAGE LIMITATION.**—Not more than a total of 20,000,000 acres of Federal lands may be included in authorized hazardous fuels reduction projects.

[(d) **EXCLUSION OF CERTAIN FEDERAL LANDS.**—The Secretary concerned may not plan or conduct an authorized hazardous fuels reduction project that would occur on any of the following Federal lands:

[(1) A component of the National Wilderness Preservation System.

[(2) Federal lands where, by Act of Congress or Presidential proclamation, the removal of vegetation is prohibited or restricted.

[(3) Wilderness Study Areas.

## **[SEC. 103. PRIORITIZATION FOR COMMUNITIES AND WATERSHEDS.]**

[As provided for in the Implementation Plan, the Secretary concerned shall give priority to authorized hazardous fuel reduction projects that provide for the protection of communities and watersheds.

## **[SEC. 104. ENVIRONMENTAL ANALYSIS.]**

[(a) **IN GENERAL.**—Except as otherwise provided in this title, the Secretary concerned shall plan and conduct authorized hazardous fuels reduction projects in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) and any other applicable laws. The Secretary concerned shall prepare an environmental assessment or an environmental impact statement for each authorized hazardous fuels reduction project.

[(b) **DISCRETIONARY AUTHORITY TO ELIMINATE ALTERNATIVES.**—In the case of an authorized hazardous fuels reduction project, the Secretary concerned is not required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared for the proposed agency action pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

[(c) **PUBLIC NOTICE AND MEETING.**—

[(1) **PUBLIC NOTICE.**—The Secretary concerned shall provide notice of each authorized hazardous fuels reduction project in accordance with applicable regulations and administrative guidelines.

[(2) **PUBLIC MEETING.**—During the planning stage of each authorized hazardous fuels reduction project, the Secretary concerned shall conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal lands in which the authorized hazardous fuels reduction project will be conducted. The Secretary concerned shall provide advance notice of the date and time of the meeting.

[(d) PUBLIC COLLABORATION.—In order to encourage meaningful public participation in the identification and development of authorized hazardous fuels reduction projects, the Secretary concerned shall facilitate collaboration among governments and interested persons during the formulation of each authorized fuels reduction project in a manner consistent with the Implementation Plan.

[(e) ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines in effect on the date of the enactment of this Act, the Secretary concerned shall provide an opportunity for public input during the preparation of any environmental assessment or environmental impact statement for proposed agency action for an authorized hazardous fuels reduction project.

[(f) DECISION DOCUMENT.—The Secretary concerned shall sign a decision document for each authorized hazardous fuels reduction project and provide notice of the decision document.

[(g) PROJECT MONITORING.—As provided for in the Implementation Plan, the Secretary concerned shall monitor the implementation of authorized hazardous fuels reduction projects.

#### **[SEC. 105. SPECIAL FOREST SERVICE ADMINISTRATIVE REVIEW PROCESS.]**

[(a) DEVELOPMENT OF ADMINISTRATIVE PROCESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to establish an administrative process that will serve as the sole means by which a person described in subsection (b) can seek administrative redress regarding an authorized hazardous fuels reduction project.

[(b) ELIGIBLE PERSONS.—To be eligible to participate in the administrative process developed pursuant to subsection (a) regarding an authorized hazardous fuels reduction project, a person must have submitted specific and substantive written comments during the preparation stage of that authorized hazardous fuels reduction project. The Secretary of Agriculture shall ensure that, during the preparation stage of each authorized hazardous fuels reduction project, notice and comment is provided in a manner sufficient to permit interested persons a reasonable opportunity to satisfy the requirements of this subsection.

[(c) RELATION TO APPEALS REFORM ACT.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 16 U.S.C. 1612 note), does not apply to an authorized hazardous fuels reduction project.

#### **[SEC. 106. SPECIAL REQUIREMENTS REGARDING JUDICIAL REVIEW OF AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.]**

[(a) FILING DEADLINE.—

[(1) TIME LIMIT ESTABLISHED FOR FILING.—Notwithstanding any other provision of law, to be timely, an action in a court of the United States challenging an authorized hazardous fuels reduction project shall be filed in the court before the end of the 15-day period beginning on the date on which the Secretary concerned publishes, in the local paper of record, notice of the final agency action regarding the authorized hazardous fuels reduction project. This time limitation supersedes any notice of intent to file suit requirement or filing deadline otherwise applicable to a challenge under any provision of law.

[(2) WAIVER PROHIBITED.—The Secretary concerned may not agree to, and a district court may not grant, a waiver of the requirements of this subsection.

[(b) DURATION OF PRELIMINARY INJUNCTION.—

[(1) DURATION; EXTENSION.—Any preliminary injunction granted regarding an authorized hazardous fuels reduction project shall be limited to 45 days. A court may renew the preliminary injunction, taking into consideration the goal expressed in subsection (c) for the expeditious resolution of cases regarding authorized hazardous fuels reduction projects.

[(2) SUBMISSION OF INFORMATION.—As part of a request to renew a preliminary injunction granted regarding an authorized hazardous fuels reduction project, the parties shall present the court with an update on any changes that may have occurred during the period of the injunction to the forest or rangeland conditions that the authorized hazardous fuels reduction project is intended to address.

[(3) CONGRESSIONAL NOTIFICATION.—In the event of the renewal of a preliminary injunction regarding an authorized hazardous fuels reduction project, the Secretary concerned shall submit notice of the renewal to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

[(c) EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.—Congress intends and encourages any court in which is filed a lawsuit or appeal of a lawsuit concerning an authorized hazardous fuels reduction project to expedite, to the maximum extent practicable, the proceedings in such lawsuit or appeal with the goal of rendering a final determination on jurisdiction, and if jurisdiction exists, a final determination on the merits, within 100 days from the date the complaint or appeal is filed.

#### **[SEC. 107. INJUNCTIVE RELIEF FOR AGENCY ACTION TO RESTORE FIRE-ADAPTED FOREST OR RANGELAND ECOSYSTEMS.]**

[(a) COVERED PROJECTS.—This section applies with respect to a motion for an injunction in an action brought against the Secretary concerned under section 703 of title 5, United States Code, that involves an agency action on Federal lands, including an authorized hazardous fuels reduction project, that is necessary to restore a fire-adapted forest or rangeland system.

[(b) INJUNCTIVE RELIEF.—When considering a motion described in subsection (a), in determining whether there would be harm to the defendant from the injunction and whether the injunction would be in the public interest, the court reviewing the agency action shall—

[(1) balance the impact to the ecosystem of the short-term and long-term effects of undertaking the agency action against the short-term and long-term effects of not undertaking the agency action; and

[(2) give weight to a finding by the Secretary concerned in the administrative record of the agency action concerning the short-term and long-term effects of undertaking the agency action and of not undertaking the agency action, unless the court finds that the finding was arbitrary and capricious.

#### **[SEC. 108. RULES OF CONSTRUCTION.]**

[(a) RELATION TO OTHER AUTHORITY.—Nothing in this title shall be construed to affect, or otherwise bias, the use by the Secretary concerned of other statutory or administrative authorities to plan or conduct a hazardous fuels reduction project on Federal lands, including Federal lands identified in section 102(e), that is not planned or conducted using the process authorized by section 104.

[(b) RELATION TO LEGAL ACTION.—Nothing in this title shall be construed to prejudice or otherwise affect the consideration or disposition of any legal action concerning the Roadless Area Conservation Rule, part 294 of title 36, Code of Federal Regulations, as amended in the final rule and record of decision published in the Federal Register on January 12, 2001 (66 Fed. Reg. 3244).

#### **[TITLE II—BIOMASS]**

##### **[SEC. 201. FINDINGS.]**

[(Congress finds the following:

[(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest and rangeland fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

[(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

[(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest and rangeland health by creating a mosaic of species-mix and age distribution. Such preventive treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

[(4) The by-products of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities.

[(5) The United States should—

[(A) promote economic and entrepreneurial opportunities in using by-products removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

[(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities.

##### **[SEC. 202. DEFINITIONS.]**

[(In this title:

[(1) BIOMASS.—The term “biomass” means trees and woody plants, including limbs, tops, needles, and other woody parts, and by-products of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

[(A) to reduce hazardous fuels; or

[(B) to reduce the risk of or to contain disease or insect infestation.

[(2) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

[(3) PERSON.—The term “person” includes—

[(A) an individual;

[(B) a community (as determined by the Secretary concerned);

[(C) an Indian tribe;

[(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

[(E) a nonprofit organization.

[(4) PREFERRED COMMUNITY.—The term “preferred community” means—

[(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

[(i) has a population of not more than 50,000 individuals; and

[(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

[(B) any county that—

[(i) is not contained within a metropolitan statistical area; and

[(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

[(5) SECRETARY CONCERNED.—The term “Secretary concerned” means—

[(A) the Secretary of Agriculture with respect to National Forest System lands; and

[(B) the Secretary of the Interior with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands.

**[SEC. 203. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.]**

[(a) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

[(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

[(2) GRANT AMOUNTS.—A grant under this subsection may not exceed \$20 per green ton of biomass delivered.

[(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

[(b) VALUE ADDED GRANT PROGRAM.—

[(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to add value to biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

[(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

[(3) GRANT AMOUNT.—A grant under this subsection may not exceed \$100,000.

[(c) RELATION TO OTHER ENDANGERED SPECIES AND RIPARIAN PROTECTIONS.—The Secretary concerned shall comply with applicable endangered species and riparian protections in making grants under this section. Projects funded using grant proceeds shall be required to comply with such protections.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$25,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

**[SEC. 204. REPORTING REQUIREMENT.]**

[(a) REPORT REQUIRED.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the grant programs authorized by section 203.

[(b) CONTENTS OF REPORT.—The report shall include the following:

[(1) An identification of the size, type, and the use of biomass by persons that receive grants under section 203.

[(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

[(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

**[TITLE III—WATERSHED FORESTRY ASSISTANCE]**

**[SEC. 301. FINDINGS AND PURPOSE.]**

[(a) FINDINGS.—Congress finds the following:

[(1) There has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management.

[(2) It is commonly recognized that the proper stewardship of forest lands is essential to sustaining and restoring the health of watersheds.

[(3) Forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes its restoration worthy of special focus.

[(4) Strengthened education, technical assistance, and financial assistance to non-industrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

[(b) PURPOSE.—The purpose of this title is to—

[(1) improve landowner and public understanding of the connection between forest management and watershed health;

[(2) encourage landowners to maintain tree cover on their property and to utilize tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

[(3) enhance and complement forest management and buffer utilization for watersheds, with an emphasis on urban watersheds;

[(4) establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

[(5) provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, as well as conserves and improves forested lands and potentially forested lands through technical, financial, and educational assistance to qualifying individuals and entities; and

[(6) maximize the proper management and conservation of wetland forests and to assist in their restoration as necessary.

**[SEC. 302. ESTABLISHMENT OF WATERSHED FORESTRY ASSISTANCE PROGRAM.]**

[(The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 the following new section:

**“SEC. 6. WATERSHED FORESTRY ASSISTANCE.]**

[(a) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Forest Service, may provide technical, financial, and related assistance to State foresters and equivalent State officials for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested lands and potentially forested lands.

[(b) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

[(1) IN GENERAL.—The Secretary, in cooperation with State foresters or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality, as described in paragraph (2).

[(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

[(A) to build and strengthen watershed partnerships that focus on forested landscapes at the local, State, and regional levels;

[(B) to provide State forestry best-management practices and water quality technical assistance directly to nonindustrial private forest landowners;

[(C) to provide technical guidance to land managers and policy makers for water quality protection through forest management;

[(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

[(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

[(3) IMPLEMENTATION.—The program of technical assistance shall be implemented by State foresters or equivalent State officials.

**[(c) WATERSHED FORESTRY COST-SHARE PROGRAM.—**

[(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program to be administered by the Forest Service and implemented by State foresters or equivalent State officials. Funds or other support provided under such program shall be made available for State forestry best-management practices programs and watershed forestry projects.

[(2) WATERSHED FORESTRY PROJECTS.—The State forester or equivalent State official of a State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) for that State, shall annually make awards to communities, nonprofit groups, and nonindustrial private forest landowners under the program for watershed forestry projects described in paragraph (3).

[(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

[(A) the use of trees as solutions to water quality problems in urban and rural areas;

[(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

[(C) application of and dissemination of monitoring information on forestry best-

management practices relating to watershed forestry;

[(D) watershed-scale forest management activities and conservation planning; and

[(E) the restoration of wetland (as defined by the States) and stream-side forests and the establishment of riparian vegetative buffers.

[(4) COST-SHARING.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project. Other Federal funding sources may be used to cover a portion of the remaining project costs, but the total Federal share of the costs may not exceed 90 percent. The non-Federal share of the costs of a project may be in the form of cash, services, or other in-kind contributions.

[(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

[(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State best-management practice forester to lead statewide programs and coordinate small watershed-level projects.

[(d) DISTRIBUTION.—

[(1) IN GENERAL.—The Secretary shall devote at least 75 percent of the funds appropriated for a fiscal year pursuant to the authorization of appropriations in subsection (e) to the cost-share program under subsection (c) and the remainder to the task of delivering technical assistance, education, and planning on the ground through the State Forester or equivalent State official.

[(2) SPECIAL CONSIDERATIONS.—Distribution of these funds by the Secretary among the States shall be made only after giving appropriate consideration to—

[(A) the acres of nonindustrial private forestland and highly erodible land in each State;

[(B) each State's efforts to conserve forests;

[(C) the acres of forests in each State that have been lost or degraded or where forests can play a role in restoring watersheds; and

[(D) the number of nonindustrial private forest landowners in each State.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of the fiscal years 2004 through 2008.”

#### **[TITLE IV—INSECT INFESTATIONS]**

#### **[SEC. 401. DEFINITIONS, FINDINGS, AND PURPOSE.]**

[(a) DEFINITIONS.—In this title:

[(1) APPLIED SILVICULTURAL ASSESSMENT.—The term “applied silvicultural assessment” means any vegetative or other treatment, for the purposes described in section 402, including timber harvest, thinning, prescribed burning, and pruning, as single treatment or any combination of these treatments.

[(2) FEDERAL LANDS.—The term “Federal lands” means—

[(A) National Forest System lands; and

[(B) public lands administered by the Secretary of the Interior, acting through the Bureau of Land Management.

[(3) SECRETARY CONCERNED.—The term “Secretary concerned” means—

[(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System lands; and

[(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

[(4) 1890 INSTITUTIONS.—The term “1890 Institution” means a college or university eli-

gible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

[(b) FINDINGS.—Congress finds the following:

[(1) High levels of tree mortality due to insect infestation result in—

[(A) increased fire risk;

[(B) loss of old growth;

[(C) loss of threatened and endangered species;

[(D) loss of species diversity;

[(E) degraded watershed conditions;

[(F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

[(G) decreased timber values.

[(2) Bark beetles destroy hundreds of thousands of acres of trees each year. In the West, over 21,000,000 acres are at high risk of bark beetle infestation and in the South over 57,000,000 acres are at risk across all land ownerships. Severe drought conditions in many areas of the South and West will increase risk of bark beetle infestations.

[(3) The hemlock woolly adelgid is destroying streamside forests throughout the mid-Atlantic and Appalachian region, threatening water quality and sensitive aquatic species, and posing a potential threat to valuable commercial timber lands in Northern New England.

[(4) The emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests as a emerald ash borer infestation is almost always fatal to the affected trees. This pest threatens to destroy over 692,000,000 ash trees in forests in Michigan and Ohio alone, and between five and ten percent of urban street trees in the Upper Midwest.

[(5) Epidemic populations of Southern pine beetle are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. In 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in beetle populations.

[(6) These epidemic outbreaks of Southern pine beetle have forced private landowners to harvest dead and dying trees, in both rural areas and increasingly urbanized settings.

[(7) According to the Forest Service, recent outbreaks of the red oak borer in Arkansas have been unprecedented, with almost 800,000 acres infested at population levels never seen before.

[(8) Much of the damage from the red oak borer has taken place in National forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources.

[(9) Previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application, and there has not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments.

[(10) Only through the rigorous funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests.

[(11) Funding and implementation of an initiative to combat forest pest infestations should not come at the expense of supporting other programs and initiatives of the Secretary concerned.

[(c) PURPOSE.—It is the purpose of this title—

[(1) to require the Secretary concerned to develop an accelerated basic and applied assessment program to combat infestations by bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers;

[(2) to enlist the assistance of universities and forestry schools, including Land Grant Colleges and Universities and 1890 Institutions, to carry out the program; and

[(3) to carry out applied silvicultural assessments.

#### **[SEC. 402. ACCELERATED INFORMATION GATHERING REGARDING BARK BEETLES, INCLUDING SOUTHERN PINE BEETLES, HEMLOCK WOOLLY ADELGIDS, EMERALD ASH BORERS, RED OAK BORERS, AND WHITE OAK BORERS.]**

[(a) INFORMATION GATHERING.—The Secretary concerned shall establish, acting through the Forest Service and United States Geological Survey, as appropriate, an accelerated program—

[(1) to plan, conduct, and promote comprehensive and systematic information gathering on bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers, including an evaluation of—

[(A) infestation prevention and control methods;

[(B) effects of infestations on forest ecosystems;

[(C) restoration of the forest ecosystem efforts;

[(D) utilization options regarding infested trees; and

[(E) models to predict the occurrence, distribution, and impact of outbreaks of bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers;

[(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers on Federal lands and State and private lands; and

[(3) to disseminate the results of such information gathering, treatments, and strategies.

[(b) COOPERATION AND ASSISTANCE.—The Secretary concerned shall establish and carry out the program in cooperation with scientists from universities and forestry schools, State agencies, and private and industrial land owners. The Secretary concerned shall designate universities and forestry schools, including Land Grant Colleges and Universities and 1890 Institutions, to assist in carrying out the program.

#### **[SEC. 403. APPLIED SILVICULTURAL ASSESSMENTS.]**

[(a) ASSESSMENT EFFORTS.—For information gathering purposes, the Secretary concerned may conduct applied silvicultural assessments on Federal lands that the Secretary concerned determines, in the discretion of the Secretary concerned, is at risk of infestation by, or is infested with, bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers. Any applied silvicultural assessments carried out under this section shall be conducted on not more than 1,000 acres per assessment.

[(b) LIMITATIONS.—

[(1) EXCLUSION OF CERTAIN AREAS.—Subsection (a) does not apply to—

[(A) a component of the National Wilderness Preservation System;

[(B) Federal lands where, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited; or

[(C) congressionally designated wilderness study areas.

[(2) CERTAIN TREATMENT PROHIBITED.—Subsection (a) does not authorize the application of insecticides in municipal watersheds and associated riparian areas.

[(3) ACREAGE LIMITATION.—Applied silvicultural assessments may be implemented on not more than 250,000 acres using the authorities provided by this title.

[(4) PEER REVIEW.—Each applied silvicultural assessment under this title, prior to being carried out, shall be peer reviewed by scientific experts selected by the Secretary concerned, which shall include non-Federal experts. The Secretary concerned may use existing peer review processes to the extent they comply with the preceding sentence.

[(c) PUBLIC NOTICE AND COMMENT.—

[(1) PUBLIC NOTICE.—The Secretary concerned shall provide notice of each applied silvicultural assessment proposed to be carried out under this section in accordance with applicable regulations and administrative guidelines.

[(2) PUBLIC COMMENT.—During the planning stage of each applied silvicultural assessment proposed to be carried out under this section, the Secretary concerned shall provide an opportunity for public input.

[(d) CATEGORICAL EXCLUSION.—Applied silvicultural assessments carried out under this section are deemed to be categorically excluded from further analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary concerned need not make any findings as to whether the project, either individually or cumulatively, has a significant effect on the environment.

#### **[SEC. 404. RELATION TO OTHER LAWS.]**

The authorities provided to the Secretary concerned by this title are supplemental to their respective authorities provided in any other law.

#### **[SEC. 405. AUTHORIZATION OF APPROPRIATIONS.]**

There is authorized to be appropriated for fiscal years 2004 through 2008 such sums as may be necessary to carry out this title.

### **[TITLE V—HEALTHY FORESTS RESERVE PROGRAM]**

#### **[SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.]**

[(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the healthy forests reserve program as a program within the Forest Service for the purpose of protecting, restoring, and enhancing degraded forest ecosystems to promote the recovery of threatened and endangered species as well as improve biodiversity and enhance carbon sequestration.

[(b) COOPERATION.—The Secretary of Agriculture shall carry out the healthy forests reserve program in cooperation with the Secretary of the Interior, acting through the United States Fish and Wildlife Service.

#### **[SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.]**

[(a) ELIGIBLE LANDS.—The Secretary of Agriculture, in consultation with the Secretary of the Interior, shall designate rare forest ecosystems to be eligible for the healthy forests reserve program. The following lands are eligible for enrollment in the healthy forests reserve program:

[(1) Private lands whose enrollment will protect, restore, enhance, or otherwise measurably increase the likelihood of recovery of an endangered species or threatened species in the wild.

[(2) Private lands whose enrollment will protect, restore, enhance, or otherwise measurably increase the likelihood of the recovery of an animal or plant species before the species reaches threatened or endangered status, such as candidate, State-listed spe-

cies, rare, peripheral, and special concern species.

[(b) OTHER CONSIDERATIONS.—In enrolling lands that satisfy the criteria in paragraph (1) or (2) of subsection (a), the Secretary of Agriculture shall give additional consideration to those lands whose enrollment will also improve biological diversity and increase carbon sequestration.

[(c) ENROLLMENT BY WILLING OWNERS.—The Secretary of Agriculture shall enroll lands in the healthy forests reserve program only with the consent of the owner of the lands.

[(d) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the healthy forests reserve program shall not exceed 1,000,000 acres.

[(e) METHODS OF ENROLLMENT.—Lands may be enrolled in the healthy forests reserve program pursuant to a 10-year cost-share agreement, a 30-year easement, or a permanent easement with buyback option. The extent to which each enrollment method is used shall be based on the approximate proportion of owner interest expressed in that method in comparison to the other methods.

[(f) ENROLLMENT PRIORITY.—The Secretary of Agriculture shall give priority to the enrollment of lands that, in the sole discretion of the Secretary, will provide the best opportunity to resolve conflicts between the presence of an animal or plant species referred to in paragraph (1) or (2) of subsection (a) and otherwise lawful land use activities.

#### **[SEC. 503. CONSERVATION PLANS.]**

[(a) PLAN REQUIRED.—Lands enrolled in the healthy forests reserve program shall be subject to a conservation plan, to be developed jointly by the land owner and the United States Fish and Wildlife Service. The conservation plan shall include a description of the land-use activities that are permissible on the enrolled lands.

[(b) INVOLVEMENT BY OTHER AGENCIES AND ORGANIZATIONS.—A State fish and wildlife agency, State forestry agency, State environmental quality agency, and other State conservation agencies and nonprofit conservation organizations may assist in providing technical or financial assistance, or both, for the development and implementation of conservation plans.

[(c) COST EFFECTIVENESS.—The conservation plan shall maximize the environmental benefits per dollar expended.

#### **[SEC. 504. FINANCIAL ASSISTANCE.]**

[(a) PERMANENT EASEMENT WITH BUYBACK OPTION.—

[(1) PAYMENT AMOUNT.—In the case of land enrolled in the healthy forests reserve program using a permanent easement with a buyback option, the Secretary of Agriculture shall pay the owner of the land an amount equal to—

[(A) the fair market value of the enrolled land less the fair market value of the land encumbered by the easement; plus

[(B) the actual costs of the approved conservation practices or the average cost of approved practices, as established by the Secretary.

[(2) BUYBACK OPTION.—Beginning on the 50th anniversary of the enrollment of the land, and every 10th-year thereafter, the owner shall be able to purchase the easement back from the United States at a rate equal to the fair market value of the easement plus the costs, adjusted for inflation, of the approved conservation practices.

[(b) 30-YEAR EASEMENT.—In the case of land enrolled in the healthy forests reserve program using a 30-year easement, the Secretary of Agriculture shall pay the owner of the land an amount equal to—

[(1) 75 percent of the fair market value of the land less the fair market value of the land encumbered by the easement; plus

[(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices, as established by the Secretary.

[(c) 10-YEAR AGREEMENT.—In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to—

[(1) 75 percent of the actual costs of the approved conservation practices; or

[(2) 75 percent of the average cost of approved practices, as established by the Secretary.

[(d) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

#### **[SEC. 505. TECHNICAL ASSISTANCE.]**

The Forest Service and the United States Fish and Wildlife Service shall provide landowners with technical assistance to comply with the terms of agreements and easements under the healthy forests reserve program and conservation plans.

#### **[SEC. 506. SAFE HARBOR.]**

In implementing the healthy forests reserve program, the Secretary of the Interior shall provide safe harbor or similar assurances, through section 7 or other authorities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), consistent with the implementing regulations of the United States Fish and Wildlife Service, to landowners who enroll land in the healthy forests reserve program when such enrollment will result in a net conservation benefit for listed species.

#### **[SEC. 507. AUTHORIZATION OF APPROPRIATIONS.]**

There are authorized to be appropriated \$15,000,000 for each of the fiscal years 2004 through 2008 to carry out this title.

### **[TITLE VI—MISCELLANEOUS PROVISIONS]**

#### **[SEC. 601. FOREST STANDS INVENTORY AND MONITORING PROGRAM TO IMPROVE DETECTION OF AND RESPONSE TO ENVIRONMENTAL THREATS.]**

[(a) IN GENERAL.—The Secretary of Agriculture shall carry out a comprehensive program to inventory, monitor, characterize, assess, and identify forest stands (with emphasis on hardwood forest stands) and potential forest stands—

[(1) in units of the National Forest System (other than those units created from the public domain); and

[(2) on private forest land, with the consent of the owner of the land.

[(b) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

[(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, and weather-related risks and other episodic events);

[(2) loss or degradation of forests;

[(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

[(4) quantification of carbon uptake rates; and

[(5) management practices that focus on preventing further forest degradation.

[(c) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

[(1) isolate and treat a threat before the threat gets out of control; and

[(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 2004 through 2008.]

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Healthy Forests Restoration Act of 2003”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Definitions.

#### TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LAND

Sec. 101. Definitions.

Sec. 102. Authorized hazardous fuels reduction projects.

Sec. 103. Prioritization for communities and watersheds.

Sec. 104. Environmental analysis.

Sec. 105. Special Forest Service administrative review process.

Sec. 106. Special requirements regarding judicial review of authorized hazardous fuels reduction projects.

Sec. 107. Standard for injunctive relief for agency action to restore fire-adapted forest or rangeland ecosystems.

Sec. 108. Effect of title.

#### TITLE II—BIOMASS

Sec. 201. Findings.

Sec. 202. Definitions.

Sec. 203. Grants to improve commercial value of forest biomass for electric energy, useful heat, transportation fuels, compost, value-added products, and petroleum-based product substitutes.

Sec. 204. Reporting requirement.

Sec. 205. Improved biomass use research program.

Sec. 206. Rural revitalization through forestry.

#### TITLE III—WATERSHED FORESTRY ASSISTANCE

Sec. 301. Findings and purposes.

Sec. 302. Watershed forestry assistance program.

Sec. 303. Tribal watershed forestry assistance.

#### TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

Sec. 401. Findings and purpose.

Sec. 402. Definitions.

Sec. 403. Accelerated information gathering regarding forest-damaging insects.

Sec. 404. Applied silvicultural assessments.

Sec. 405. Relation to other laws.

Sec. 406. Authorization of appropriations.

#### TITLE V—HEALTHY FORESTS RESERVE PROGRAM

Sec. 501. Establishment of healthy forests reserve program.

Sec. 502. Eligibility and enrollment of lands in program.

Sec. 503. Restoration plans.

Sec. 504. Financial assistance.

Sec. 505. Technical assistance.

Sec. 506. Protections and measures

Sec. 507. Involvement by other agencies and organizations.

Sec. 508. Authorization of appropriations.

#### TITLE VI—PUBLIC LAND CORPS

Sec. 601. Purposes.

Sec. 602. Definitions.

Sec. 603. Public Land Corps.

Sec. 604. Nondisplacement.

Sec. 605. Authorization of appropriations.

#### TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

Sec. 701. Purpose

Sec. 702. Definitions.

Sec. 703. Rural community forestry enterprise program.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Forest inventory and management.

Sec. 802. Program for emergency treatment and reduction of nonnative invasive plants.

Sec. 803. USDA National Agroforestry Center.

Sec. 804. Upland Hardwoods Research Center.

Sec. 805. Sense of Congress regarding enhanced community fire protection.

#### SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to reduce the risks of damage to communities, municipal water supplies, and certain at-risk Federal land from catastrophic wildfires;

(2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuels, and petroleum-based product substitutes, and for other commercial purposes;

(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

(4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;

(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

(6) to protect, restore, and enhance forest ecosystem components—

(A) to promote the recovery of threatened and endangered species;

(B) to improve biological diversity; and

(C) to enhance productivity and carbon sequestration.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **FEDERAL LAND.**—The term “Federal land” means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

#### TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LAND

##### SEC. 101. DEFINITIONS.

In this title:

(1) **AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECT.**—The term “authorized hazardous fuels reduction project” means a hazardous fuels reduction project on Federal land described in section 102(a) conducted in accordance with sections 103 and 104.

(2) **CONDITION CLASS 2.**—The term “condition class 2”, with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled “Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management” (RMRS-87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(3) **CONDITION CLASS 3.**—The term “condition class 3”, with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (2) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(4) **DAY.**—The term “day” means—

(A) a calendar day; or

(B) if a deadline imposed by this title would expire on a nonbusiness day, the end of the next business day.

(5) **DECISION DOCUMENT.**—The term “decision document” means a decision notice or record of decision, as those terms are used in applicable regulations of the Council on Environmental Quality and the Forest Service Handbook.

(6) **HAZARDOUS FUELS.**—The term “hazardous fuels” means vegetation (dead or alive) in the forest or rangeland ecosystem that—

(A) is in excess of historic conditions or management goals; and

(B) can cause wildfires.

(7) **HAZARDOUS FUELS REDUCTION PROJECT.**—The term “hazardous fuels reduction project” means the measures and methods described in the definition of “appropriate tools” contained in the glossary of the Implementation Plan.

(8) **IMPLEMENTATION PLAN.**—The term “Implementation Plan” means the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106-291) (including any subsequent revision to the Plan).

(9) **INTERFACE COMMUNITY.**—The term “interface community” has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(10) **INTERMIX COMMUNITY.**—The term “intermix community” has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(11) **MUNICIPAL WATER SUPPLY SYSTEM.**—The term “municipal water supply system” means the source watersheds, reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water for a community.

(12) **RESOURCE MANAGEMENT PLAN.**—The term “resource management plan” means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 3(1)(A) under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared for 1 or more units of the public land described in section 3(1)(B) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(13) **SECRETARY.**—The term “Secretary” means—



(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(B) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(14) **THREATENED AND ENDANGERED SPECIES HABITAT.**—The term “threatened and endangered species habitat” means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

#### **SEC. 102. AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.**

(a) **AUTHORIZED PROJECTS.**—

(1) **IN GENERAL.**—The Secretary may conduct hazardous fuels reduction projects on—

(A) Federal land located in an interface community or intermix community;

(B) Federal land located in such proximity to an interface community or intermix community that there is a significant risk that the spread of a fire disturbance event from that land would threaten human life or property in proximity to or within the interface community or intermix community;

(C) condition class 3 or condition class 2 Federal land located in such proximity to a municipal watershed, water supply system or a stream feeding a municipal water supply system that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including the risk to water quality posed by erosion following such a fire disturbance event;

(D) condition class 3 or condition class 2 Federal land on which windthrow or blowdown, ice storm damage, or the existence or threat of disease or insect infestation, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent private land;

(E) Federal land not covered by subparagraph (A), (B), (C), or (D) that contains threatened and endangered species habitat, if—

(i) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(ii) the project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(iii) the Secretary complies with any applicable guidelines specified in any recovery plan described in clause (i).

(2) **CLASSIFICATION.**—The Secretary shall classify appropriate land described in paragraph (1)(D) impacted by windthrow or blowdown, ice storm damage, or the existence or threat of disease or insect infestation as condition class 3 or condition class 2 Federal land.

(b) **RELATION TO AGENCY PLANS.**—An authorized hazardous fuels reduction project shall be conducted in a manner consistent with the resource management plan applicable to the Federal land covered by the project.

(c) **ACREAGE LIMITATION.**—Not more than a total of 20,000,000 acres of Federal land may be included in authorized hazardous fuels reduction projects.

(d) **EXCLUSION OF CERTAIN FEDERAL LAND.**—The Secretary may not conduct an authorized hazardous fuels reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is prohibited or restricted; or

(3) a Wilderness Study Area.

#### **SEC. 103. PRIORITIZATION FOR COMMUNITIES AND WATERSHEDS.**

As provided for in the Implementation Plan, the Secretary shall give priority to authorized hazardous fuel reduction projects that provide for the protection of communities and watersheds.

#### **SEC. 104. ENVIRONMENTAL ANALYSIS.**

(a) **HAZARDOUS FUELS REDUCTION PROJECTS.**—

(1) **IN GENERAL.**—Except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuels reduction projects in accordance with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.); and

(B) other applicable laws.

(2) **ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENT.**—The Secretary shall prepare an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))) for each authorized hazardous fuels reduction project.

(b) **ALTERNATIVES.**—The Secretary is not required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared in accordance with subsection (a)(2).

(c) **PUBLIC NOTICE AND MEETING.**—

(1) **PUBLIC NOTICE.**—The Secretary shall provide notice of each authorized hazardous fuels reduction project in accordance with applicable regulations and administrative guidelines.

(2) **PUBLIC MEETING.**—During the preparation stage of each authorized hazardous fuels reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuels reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(d) **PUBLIC COLLABORATION.**—In order to encourage meaningful public participation during preparation of authorized hazardous fuels reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuels reduction project in a manner consistent with the Implementation Plan.

(e) **ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.**—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public input during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuels reduction project.

(f) **DECISION DOCUMENT.**—The Secretary shall sign a decision document for authorized hazardous fuels reduction projects and provide notice of the final agency actions.

(g) **PROJECT MONITORING.**—In accordance with the Implementation Plan, the Secretary shall monitor the implementation of authorized hazardous fuels reduction projects.

#### **SEC. 105. SPECIAL FOREST SERVICE ADMINISTRATIVE REVIEW PROCESS.**

(a) **DEVELOPMENT OF ADMINISTRATIVE REVIEW PROCESS.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate final regulations to establish an administrative review process that will serve as the sole means by which a per-

son described in subsection (b) can seek administrative review regarding a proposed hazardous fuels reduction project.

(b) **ELIGIBLE PERSONS.**—

(1) **IN GENERAL.**—To be eligible to participate in the administrative review process established under subsection (a), a person shall submit specific and substantive written comments during the notice and comment stage of the authorized hazardous fuels reduction project.

(2) **NOTICE AND COMMENT.**—The Secretary of Agriculture shall ensure that, during the preparation stage of each authorized hazardous fuels reduction project, notice and comment is provided in a manner sufficient to permit interested persons a reasonable opportunity to comply with this subsection.

(c) **RELATION TO APPEALS REFORM ACT.**—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 16 U.S.C. 1612 note), does not apply to an authorized hazardous fuels reduction project.

#### **SEC. 106. SPECIAL REQUIREMENTS REGARDING JUDICIAL REVIEW OF AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.**

(a) **FILING DEADLINE.**—

(1) **TIME LIMIT ESTABLISHED FOR FILING.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, to be timely, an action in a court of the United States challenging an authorized hazardous fuels reduction project shall be filed in the court before the end of the 15-day period beginning on the date on which the Secretary provides notice of the final agency action regarding the authorized hazardous fuels reduction project.

(B) **APPLICABILITY.**—The time limitation under subparagraph (A) supersedes any requirement regarding notice of intent to file a lawsuit, or filing deadline, otherwise applicable to an action challenging an authorized hazardous fuels reduction project under any provision of law.

(2) **WAIVER PROHIBITED.**—The Secretary may not agree to, and a court of the United States may not grant, a waiver of the requirements of this subsection.

(b) **DURATION OF PRELIMINARY INJUNCTION.**—

(1) **DURATION; EXTENSION.**—

(A) **DURATION.**—Any preliminary injunction, or injunction pending appeal, granted by a court of the United States regarding an authorized hazardous fuels reduction project shall be limited to 45 days.

(B) **EXTENSION.**—A court may renew the preliminary injunction or injunction pending appeal, taking into consideration the goal expressed in subsection (c) for the expeditious resolution of cases regarding authorized hazardous fuels reduction projects.

(2) **SUBMISSION OF INFORMATION.**—As part of a request to renew a preliminary injunction, or injunction pending appeal, granted regarding an authorized hazardous fuels reduction project, the parties involved shall present to the court a description of any changes that may have occurred during the period of the injunction to the forest or rangeland conditions that the authorized hazardous fuels reduction project is intended to address.

(3) **CONGRESSIONAL NOTIFICATION.**—In the event of the renewal of a preliminary injunction, or injunction pending appeal, regarding an authorized hazardous fuels reduction project, the Secretary shall submit notice of the renewal to—

(A) the Committee on Resources and the Committee on Agriculture of the House of Representatives; and

(B) the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) **EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.**—Congress intends and encourages any court in which is filed an action challenging an authorized hazardous fuels reduction project to expedite, to the maximum extent practicable, the



proceedings in the lawsuit or appeal with the goal of rendering, not later than 100 days after the date on which the complaint or appeal is filed—

(1) a final determination on jurisdiction; and  
(2) if jurisdiction exists, a final determination on the merits.

**SEC. 107. STANDARD FOR INJUNCTIVE RELIEF FOR AGENCY ACTION TO RESTORE FIRE-ADAPTED FOREST OR RANGELAND ECOSYSTEMS.**

If a civil action brought against the Secretary under section 703 of title 5, United States Code, involves an agency action on Federal land on which the Secretary found that the agency action is necessary to restore a fire-adapted forest or rangeland ecosystem (including an authorized hazardous fuels reduction project), the court reviewing the agency action, in considering a request for a prohibitory or mandatory injunction against the agency action, shall—

(1) balance the impact to the ecosystem likely affected by the project of the short- and long-term effects of undertaking the agency action against the short- and long-term effects of not undertaking the agency action; and

(2) give weight to a finding by the Secretary in the administrative record of the agency action concerning the short- and long-term effects of undertaking the agency action and of not undertaking the agency action, unless the court finds that the finding was arbitrary and capricious.

**SEC. 108. EFFECT OF TITLE.**

(a) **RELATION TO OTHER AUTHORITY.**—Nothing in this title affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority to conduct a hazardous fuels reduction project on Federal land (including Federal land identified in section 102(d)) that is not conducted using the process authorized by section 104.

(b) **RELATION TO LEGAL ACTION.**—Nothing in this title prejudices or otherwise affects the consideration or disposition of any legal action concerning the Roadless Area Conservation Rule contained in part 294 of title 36, Code of Federal Regulations, and amended in the final rule and record of decision published in the Federal Register on January 12, 2001 (66 Fed. Reg. 3244).

**TITLE II—BIOMASS**

**SEC. 201. FINDINGS.**

Congress finds that—

(1)(A) thousands of communities in the United States, many located near Federal land, are at risk of wildfire;

(B) more than 100,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future; and

(C) the accumulation of heavy forest and rangeland fuel loads continues to increase as a result of fire exclusion, disease, insect infestations, and drought, further raising the risk of fire each year;

(2)(A) more than 70,000,000 acres across all land ownerships are at risk of higher than normal mortality during the 15-year period beginning on the date of enactment of this Act because of insect infestation and disease; and

(B) high levels of tree mortality from insects and disease result in—

(i) increased fire risk;  
(ii) loss of older trees and old growth;  
(iii) degraded watershed conditions;  
(iv) changes in species diversity and productivity;  
(v) diminished fish and wildlife habitat;  
(vi) decreased timber values; and  
(vii) increased threats to homes, businesses, and community watersheds;

(3)(A) preventive treatments (such as reducing fuel loads, crown density, ladder fuels, and hazardous trees), planting proper species mix, restoring and protecting early successional habitat, and completing other specific restoration treatments designed to reduce the susceptibility of forest

and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest and rangeland health, maintenance, and enhancement by creating a mosaic of species-mix and age distribution; and

(B) those vegetation management treatments are widely acknowledged to be more successful and cost-effective than suppression treatments in the case of insects, disease, and fire;

(4)(A) the byproducts of vegetative management treatment (such as trees, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest and rangeland represent an abundant supply of—

(i) biomass for biomass-to-energy facilities; and

(ii) raw material for business; and

(B) there are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities; and

(5) the United States should—

(A) promote economic and entrepreneurial opportunities in using by-products removed through vegetation treatment activities relating to hazardous fuels reduction, disease, and insect infestation;

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities; and

(C) promote research and development to provide, for the by-products, economically and environmentally sound—

(i) management systems;  
(ii) harvest and transport systems; and  
(iii) utilization options.

**SEC. 202. DEFINITIONS.**

In this title:

(1) **BIOMASS.**—The term “biomass” means trees and woody plants (including limbs, tops, needles, other woody parts, and wood waste) and byproducts of preventive treatment (such as wood, brush, thinnings, chips, and slash) that are removed—

(A) to reduce hazardous fuels;  
(B) to reduce the risk of or to contain disease or insect infestation; or  
(C) to improve forest health and wildlife habitat conditions.

(2) **PERSON.**—The term “person” includes—

(A) an individual;  
(B) a community (as determined by the Secretary);  
(C) an Indian tribe;  
(D) a small business, microbusiness, or a corporation that is incorporated in the United States; and  
(E) a nonprofit organization.

(3) **PREFERRED COMMUNITY.**—The term “preferred community” means—

(A) any town, township, municipality, Indian tribe, or other similar unit of local government (as determined by the Secretary) that—  
(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land that—

(I) is at significant risk of catastrophic wildfire, disease, or insect infestation; or  
(II) suffers from disease or insect infestation; or

(B) any area or unincorporated area represented by a nonprofit organization approved by the Secretary, that—

(i) is not wholly contained within a metropolitan statistical area; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land—

(I) the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) that suffers from disease or insect infestation.

(4) **SECRETARY.**—The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to Federal land under the jurisdiction of the Secretary of the Interior (including land held in trust for the benefit of an Indian tribe).

**SEC. 203. GRANTS TO IMPROVE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, COMPOST, VALUE-ADDED PRODUCTS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.**

(a) **BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, substitutes for petroleum-based products, wood-based products, pulp, or other commercial products to offset the costs incurred to purchase biomass for use by the facility.

(2) **GRANT AMOUNTS.**—A grant under this subsection may not exceed \$20 per green ton of biomass delivered.

(3) **MONITORING OF GRANT RECIPIENT ACTIVITIES.**—

(A) **IN GENERAL.**—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass.

(B) **ACCESS.**—On notice by a representative of the Secretary, the grant recipient shall afford the representative—

(i) reasonable access to the facility that purchases or uses biomass; and  
(ii) an opportunity to examine the inventory and records of the facility.

(b) **VALUE-ADDED GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary—

(A) may make grants to persons to offset the cost of projects to add value to biomass; and  
(B) in making a grant under subparagraph (A), shall give preference to persons in preferred communities.

(2) **SELECTION.**—The Secretary shall select a grant recipient under paragraph (1)(A) after giving consideration to—

(A) the anticipated public benefits of the project;  
(B) opportunities for the creation or expansion of small businesses and microbusinesses resulting from the project; and  
(C) the potential for new job creation as a result of the project.

(3) **GRANT AMOUNT.**—A grant under this subsection shall not exceed \$100,000.

(c) **RELATION TO OTHER ENDANGERED SPECIES AND RIPARIAN PROTECTIONS.**—

(1) **IN GENERAL.**—The Secretary shall comply with applicable endangered species and riparian protections in making grants under this section.

(2) **PROJECTS.**—Projects funded using grant proceeds shall be required to comply with the protections.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2004 through 2008.

**SEC. 204. REPORTING REQUIREMENT.**

(a) **REPORT REQUIRED.**—Not later than October 1, 2008, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the grant programs authorized by section 203.

(b) **CONTENTS OF REPORT.**—The report shall include—

(1) an identification of the source, size, type, and the end-use of biomass by persons that receive grants under section 203;

(2) the haul costs incurred and the distance between the land from which the biomass was removed and the facilities that used the biomass;

(3) the economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations; and

(4) the environmental effects of the activities described in this section.

#### SEC. 205. IMPROVED BIOMASS USE RESEARCH PROGRAM.

(a) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) is amended—

(1) in paragraph (3), by striking “or” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(5) research to integrate silviculture, harvesting, product development, processing information, and economic evaluation to provide the science, technology, and tools to forest managers and community developers for use in evaluating forest treatment and production alternatives, including—

“(A) to develop tools that would enable land managers, locally or in a several-State region, to estimate—

“(i) the cost to deliver varying quantities of wood to a particular location; and

“(ii) the amount that could be paid for stumpage if delivered wood was used for a specific mix of products;

“(B) to conduct research focused on developing appropriate thinning systems and equipment designs that are—

“(i) capable of being used on land without significant adverse effects on the land;

“(ii) capable of handling large and varied landscapes;

“(iii) adaptable to handling a wide variety of tree sizes;

“(iv) inexpensive; and

“(v) adaptable to various terrains; and

“(C) to develop, test, and employ in the training of forestry managers and community developers curricula materials and training programs on matters described in subparagraphs (A) and (B).”.

(b) FUNDING.—Section 310(b) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) is amended—

(1) by striking “\$49,000,000” and inserting “\$54,000,000”; and

(2) by inserting before the period at the end the following: “, of which not less than \$5,000,000 shall be used for each fiscal year to carry out section 307(d)(5)”.

#### SEC. 206. RURAL REVITALIZATION THROUGH FORESTRY.

Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended by adding at the end the following:

“(d) RURAL REVITALIZATION TECHNOLOGIES.—

“(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with the State and Private Forestry Technology Marketing Unit at the Forest Products Laboratory, and in collaboration with eligible institutions, may carry out a program—

“(A) to accelerate adoption of technologies using biomass and small-diameter materials;

“(B) to create community-based enterprises through marketing activities and demonstration projects; and

“(C) to establish small-scale business enterprises to make use of biomass and small-diameter materials.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$5,000,000 for each of fiscal years 2004 through 2008.”.

### TITLE III—WATERSHED FORESTRY ASSISTANCE

#### SEC. 301. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

(b) PURPOSES.—The purposes of this title are—

(1) to improve landowner and public understanding of the connection between forest management and watershed health;

(2) to encourage landowners to maintain tree cover on property and to use tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

(3) to enhance and complement forest management and buffer use for watersheds, with an emphasis on community watersheds;

(4) to establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

(5) to provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, and conserves and improves forested land and potentially forested land, through technical, financial, and educational assistance to qualifying individuals and entities; and

(6) to maximize the proper management and conservation of wetland forests and to assist in the restoration of those forests.

#### SEC. 302. WATERSHED FORESTRY ASSISTANCE PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 (16 U.S.C. 2103a) the following:

##### “SEC. 6. WATERSHED FORESTRY ASSISTANCE PROGRAM.

“(a) DEFINITION OF NONINDUSTRIAL PRIVATE FOREST LAND.—In this section, the term ‘nonindustrial private forest land’ means rural land, as determined by the Secretary, that—

“(1) has existing tree cover or that is suitable for growing trees; and

“(2) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decisionmaking authority over the land.

“(b) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Chief of the Forest Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, and officials of the Cooperative State Research, Education, and Extension Service for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested land and potentially forested land.

##### “(c) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

“(1) IN GENERAL.—The Secretary, in cooperation with State foresters, officials of the Cooperative State Research, Education, and Extension Service, or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical as-

sistance to protect water quality described in paragraph (2).

“(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

“(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, and local levels;

“(B) to provide State forestry best-management practices and water quality technical assistance directly to owners of nonindustrial private forest land;

“(C) to provide technical guidance to land managers and policymakers for water quality protection through forest management;

“(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

“(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

“(3) IMPLEMENTATION.—The program of technical assistance shall be implemented by State foresters or equivalent State officials.

##### “(d) WATERSHED FORESTRY COST-SHARE PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program—

“(A) which shall be—

“(i) administered by the Forest Service; and

“(ii) implemented by State foresters or equivalent State officials; and

“(B) under which funds or other support provided shall be made available for State forestry best-management practices programs and watershed forestry projects.

“(2) WATERSHED FORESTRY PROJECTS.—The State forester, State Research, Education and Extension official, or equivalent State official of a State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) (or an equivalent committee) for that State, shall make awards to communities, nonprofit groups, and owners of nonindustrial private forest land under the program for watershed forestry projects described in paragraph (3).

“(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

“(A) the use of trees as solutions to water quality problems in urban and rural areas;

“(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

“(C) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

“(D) watershed-scale forest management activities and conservation planning; and

“(E)(i) the restoration of wetland (as defined by the States) and stream-side forests; and

“(ii) the establishment of riparian vegetative buffers.

“(4) COST-SHARING.—

“(A) FEDERAL SHARE.—

“(i) FUNDS UNDER THIS SUBSECTION.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

“(ii) OTHER FEDERAL FUNDS.—The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

“(B) FORM.—The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

“(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State, or

equivalent State committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

“(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

“(A) lead statewide programs; and

“(B) coordinate watershed-level projects.

“(e) DISTRIBUTION.—

“(1) IN GENERAL.—Of the funds made available for a fiscal year under subsection (g), the Secretary shall use—

“(A) at least 75 percent of the funds to carry out the cost-share program under subsection (d); and

“(B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

“(2) SPECIAL CONSIDERATIONS.—Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

“(A) the acres of agricultural land, nonindustrial private forest land, and highly erodible land in each State;

“(B) the miles of riparian buffer needed;

“(C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;

“(D) the number of owners of nonindustrial private forest land in each State; and

“(E) water quality cost savings that can be achieved through forest watershed management.

“(f) WILLING OWNERS.—

“(1) IN GENERAL.—Participation of an owner of nonindustrial private forest land in the watershed forestry assistance program under this section is voluntary.

“(2) WRITTEN CONSENT.—The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2004 through 2008.”.

#### SEC. 303. TRIBAL WATERSHED FORESTRY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”), acting through the Chief of the Forest Service, shall provide technical, financial, and related assistance to Indian tribes for the purpose of expanding tribal stewardship capacities and activities through tribal forestry best-management practices and other means at the tribal level to address watershed issues on land under the jurisdiction of or administered by the Indian tribes.

(b) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

(1) IN GENERAL.—The Secretary, in cooperation with Indian tribes, shall develop a program to provide technical assistance to protect water quality, as described in paragraph (2).

(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, tribal, and local levels;

(B) to provide tribal forestry best-management practices and water quality technical assistance directly to Indian tribes;

(C) to provide technical guidance to tribal land managers and policy makers for water quality protection through forest management;

(D) to complement tribal efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal agencies and tribal entities charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of tribal forestry best-management practices.

(c) WATERSHED FORESTRY PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a watershed forestry program to be administered by Indian tribes.

(2) PROGRAMS AND PROJECTS.—Funds or other support provided under the program shall be made available for tribal forestry best-management practices programs and watershed forestry projects.

(3) ANNUAL AWARDS.—The Secretary shall annually make awards to Indian tribes to carry out this subsection.

(4) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within land under the jurisdiction of or administered by an Indian tribe by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems;

(B) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(C) watershed-scale forest management activities and conservation planning;

(D) the restoration of wetland and stream-side forests and the establishment of riparian vegetative buffers; and

(E) tribal-based planning, involvement, and action through State, tribal, local, and non-profit partnerships.

(5) PRIORITIZATION.—An Indian tribe that participates in the program under this subsection shall prioritize watersheds in land under the jurisdiction of or administered by the Indian tribe to target watershed forestry projects funded under this subsection.

(6) WATERSHED FORESTER.—The Secretary may provide to Indian tribes under this section financial and technical assistance to establish a position of tribal forester to lead tribal programs and coordinate small watershed-level projects.

(d) DISTRIBUTION.—The Secretary shall devote—

(1) at least 75 percent of the funds made available for a fiscal year under subsection (e) to the program under subsection (c); and

(2) the remainder of the funds to deliver technical assistance, education, and planning on the ground to Indian tribes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,500,000 for each of fiscal years 2004 through 2008.

#### TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

##### SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in—

(A) increased fire risk;

(B) loss of old trees and old growth;

(C) loss of threatened and endangered species;

(D) loss of species diversity;

(E) degraded watershed conditions;

(F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

(G) decreased timber values;

(2)(A) forest-damaging insects destroy hundreds of thousands of acres of trees each year;

(B) in the West, more than 21,000,000 acres are at high risk of forest-damaging insect infestation, and in the South, more than 57,000,000 acres are at risk across all land ownerships; and

(C) severe drought conditions in many areas of the South and West will increase the risk of forest-damaging insect infestations;

(3) the hemlock woolly adelgid is—

(A) destroying streamside forests throughout the mid-Atlantic and Appalachian regions;

(B) threatening water quality and sensitive aquatic species; and

(C) posing a potential threat to valuable commercial timber land in northern New England;

(4)(A) the emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests because an emerald ash borer infestation is almost always fatal to affected trees; and

(B) the emerald ash borer pest threatens to destroy more than 692,000,000 ash trees in forests in Michigan and Ohio alone, and between 5 and 10 percent of urban street trees in the Upper Midwest;

(5)(A) epidemic populations of Southern pine beetles are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and

(B) in 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in Southern pine beetle populations;

(6) those epidemic outbreaks of Southern pine beetles have forced private landowners to harvest dead and dying trees, in rural areas and increasingly urbanized settings;

(7) according to the Forest Service, recent outbreaks of the red oak borer in Arkansas and Missouri have been unprecedented, with more than 1,000,000 acres infested at population levels never seen before;

(8) much of the damage from the red oak borer has taken place in national forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources;

(9)(A) previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application; and

(B) there have not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments;

(10) only through the full funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests;

(11)(A) often, there are significant interactions between insects and diseases;

(B) many diseases (such as white pine blister rust, beech bark disease, and many other diseases) can weaken trees and forest stands and predispose trees and forest stands to insect attack; and

(C) certain diseases are spread using insects as vectors (including Dutch elm disease and pine pitch canker); and

(12) funding and implementation of an initiative to combat forest pest infestations and associated diseases should not come at the expense of supporting other programs and initiatives of the Secretary.

(b) PURPOSES.—The purposes of this title are—

(1) to require the Secretary to develop an accelerated basic and applied assessment program to combat infestations by forest-damaging insects and associated diseases;

(2) to enlist the assistance of colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions), State agencies, and private landowners to carry out the program; and

(3) to carry out applied silvicultural assessments.

##### SEC. 402. DEFINITIONS.

In this title:

(1) APPLIED SILVICULTURAL ASSESSMENT.—

(A) IN GENERAL.—The term “applied silvicultural assessment” means any vegetative or other treatment carried out for a purpose described in section 403.

(B) INCLUSIONS.—The term “applied silvicultural assessment” includes (but is not limited to)

timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities.

(2) 1890 INSTITUTION.—

(A) IN GENERAL.—The term “1890 Institution” means a college or university that is eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.).

(B) INCLUSION.—The term “1890 Institution” includes Tuskegee University.

(3) FOREST-DAMAGING INSECT.—The term “forest-damaging insect” means—

- (A) a Southern pine beetle;
- (B) a mountain pine beetle;
- (C) a spruce bark beetle;
- (D) a gypsy moth;
- (E) a hemlock woolly adelgid;
- (F) an emerald ash borer;
- (G) a red oak borer;
- (H) a white oak borer; and
- (I) such other insects as may be identified by the Secretary.

(4) SECRETARY.—The term “Secretary” means—

(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System land; and

(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

#### SEC. 403. ACCELERATED INFORMATION GATHERING REGARDING FOREST-DAMAGING INSECTS.

(a) INFORMATION GATHERING.—The Secretary, acting through the Forest Service and United States Geological Survey, as appropriate, shall establish an accelerated program—

(1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—

- (A) infestation, prevention, and suppression methods;
- (B) effects of infestations and associated disease interactions on forest ecosystems;
- (C) restoration of forest ecosystem efforts;
- (D) utilization options regarding infested trees; and
- (E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;

(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

(3) to disseminate the results of the information gathering, treatments, and strategies.

(b) COOPERATION AND ASSISTANCE.—The Secretary shall—

(1) establish and carry out the program in cooperation with—

(A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);

(B) Federal, State, and local agencies; and

(C) private and industrial landowners; and

(2) designate such colleges and universities to assist in carrying out the program.

#### SEC. 404. APPLIED SILVICULTURAL ASSESSMENTS.

(a) ASSESSMENT EFFORTS.—For information gathering and research purposes, the Secretary may conduct applied silvicultural assessments on Federal land that the Secretary determines is at risk of infestation by, or is infested with, forest-damaging insects.

(b) LIMITATIONS.—

(1) EXCLUSION OF CERTAIN AREAS.—Subsection (a) does not apply to—

(A) a component of the National Wilderness Preservation System;

(B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

(C) a congressionally-designated wilderness study area; or

(D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) CERTAIN TREATMENT PROHIBITED.—Nothing in subsection (a) authorizes the application of insecticides in municipal watersheds or associated riparian areas.

(3) PEER REVIEW.—

(A) IN GENERAL.—Before being carried out, each applied silvicultural assessment under this title shall be peer reviewed by scientific experts selected by the Secretary, which shall include non-Federal experts.

(B) EXISTING PEER REVIEW PROCESSES.—The Secretary may use existing peer review processes to the extent the processes comply with subparagraph (A).

(c) PUBLIC NOTICE AND COMMENT.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each applied silvicultural assessment proposed to be carried out under this section.

(2) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment before carrying out an applied silviculture assessment under this section.

(d) CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—Applied silvicultural assessment and research treatments carried out under this section on not more than 1,000 acres for an assessment or treatment may be categorically excluded from documentation in an environmental impact statement and environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ADMINISTRATION.—Applied silvicultural assessments and research treatments categorically excluded under paragraph (1)—

(A) shall not be carried out in an area that is adjacent to another area that is categorically excluded under paragraph (1) that is being treated with similar methods; and

(B) shall be subject to the extraordinary circumstances procedures established by the Secretary pursuant to section 1508.4 of title 40, Code of Federal Regulations.

(3) MAXIMUM CATEGORICAL EXCLUSION.—The total number of acres categorically excluded under paragraph (1) shall not exceed 250,000 acres.

(4) NO ADDITIONAL FINDINGS REQUIRED.—In accordance with paragraph (1), the Secretary shall not be required to make any findings as to whether an applied silvicultural assessment project, either individually or cumulatively, has a significant effect on the environment.

#### SEC. 405. RELATION TO OTHER LAWS.

The authority provided to each Secretary under this title is supplemental to, and not in lieu of, any authority provided to the Secretaries under any other law.

#### SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title for each of fiscal years 2004 through 2008.

### TITLE V—HEALTHY FORESTS RESERVE PROGRAM

#### SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the healthy forests reserve program for the purpose of restoring and enhancing forest ecosystems—

(1) to promote the recovery of threatened and endangered species;

(2) to improve biodiversity; and

(3) to enhance carbon sequestration.

(b) COORDINATION.—The Secretary of Agriculture shall carry out the healthy forests reserve program in coordination with the Secretary of the Interior and the Secretary of Commerce.

#### SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the Secretary of

the Interior and the Secretary of Commerce, shall describe and define forest ecosystems that are eligible for enrollment in the healthy forests reserve program.

(b) ELIGIBILITY.—To be eligible for enrollment in the healthy forests reserve program, land shall be—

(1) private land the enrollment of which will restore, enhance, or otherwise measurably increase the likelihood of recovery of a species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) private land the enrollment of which will restore, enhance, or otherwise measurably improve the well-being of species that—

(A) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(B) are candidates for such listing, State-listed species, or special concern species.

(c) OTHER CONSIDERATIONS.—In enrolling land that satisfies the criteria under subsection (b), the Secretary of Agriculture shall give additional consideration to land the enrollment of which will—

(1) improve biological diversity; and

(2) increase carbon sequestration.

(d) ENROLLMENT BY WILLING OWNERS.—The Secretary of Agriculture shall enroll land in the healthy forests reserve program only with the consent of the owner of the land.

(e) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the healthy forests reserve program shall not exceed 2,000,000 acres.

(f) METHODS OF ENROLLMENT.—

(1) IN GENERAL.—Land may be enrolled in the healthy forests reserve program in accordance with—

(A) a 10-year cost-share agreement;

(B) a 30-year agreement; or

(C) a long-term easement with a buyback option.

(2) PROPORTION.—The extent to which each enrollment method is used shall be based on the approximate proportion of owner interest expressed in that method in comparison to the other methods.

(g) ENROLLMENT PRIORITY.—

(1) SPECIES.—The Secretary of Agriculture shall give priority to the enrollment of land that provides the greatest conservation benefit to—

(A) primarily, species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(B) secondarily, species that—

(i) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(ii) are candidates for such listing, State-listed species, or special concern species.

(2) COST-EFFECTIVENESS.—The Secretary of Agriculture shall also consider the cost-effectiveness of each agreement and easement, and their associated restoration plans, so as to maximize the environmental benefits per dollar expended.

#### SEC. 503. RESTORATION PLANS.

(a) IN GENERAL.—Land enrolled in the healthy forests reserve program shall be subject to a restoration plan, to be developed jointly by the landowner and the Secretary of Agriculture.

(b) PRACTICES.—The restoration plan shall require such restoration practices as are necessary to restore and enhance habitat for—

(1) species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) animal or plant species before the species reach threatened or endangered status, such as candidate, State-listed species, and special concern species.

#### SEC. 504. FINANCIAL ASSISTANCE.

(a) LONG-TERM EASEMENT WITH BUYBACK OPTION.—

(1) PAYMENT AMOUNT.—In the case of land enrolled in the healthy forests reserve program

using a long-term easement (with a minimum length of 99 years) with a buyback option, the Secretary of Agriculture shall pay the owner of the land an amount equal to not less than 75 percent, nor more than 100 percent, of (as determined by the Secretary)—

(A) the fair market value of the enrolled land during the period the land is subject to the easement, less the fair market value of the land encumbered by the easement; and

(B) the actual costs of the approved conservation practices or the average cost of approved practices carried out on the land during the period the land is subject to the easement.

(2) **BUY-BACK OPTION.**—In the case of land enrolled in the healthy forests reserve program using a long-term easement with a buyback option, beginning on the date that is 50 years after the date of enrollment of the land, and every 10 years thereafter, the owner of the land shall be permitted to purchase the easement back from the United States for an amount equal to not more than (as determined by the Secretary)—

(A) the percentage of the fair market value the owner received for the easement under paragraph (1); and

(B) the costs, adjusted by the Secretary to reflect changes in the Consumer Price Index for all-urban consumers, as published by the Bureau of Labor Statistics, of the approved conservation practices necessary for establishment of the easement.

(3) **FUNDS.**—All funds returned to the United States under this subsection shall be used to carry out the healthy forests reserve program.

(b) **30-YEAR AGREEMENT.**—In the case of land enrolled in the healthy forests reserve program using a 30-year agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 75 percent of the fair market value of the land, less the fair market value of the land encumbered by the agreement; and

(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices.

(c) **10-YEAR AGREEMENT.**—In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 50 percent of the actual costs of the approved conservation practices; or

(2) 50 percent of the average cost of approved practices.

(d) **ACCEPTANCE OF CONTRIBUTIONS.**—The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

#### SEC. 505. TECHNICAL ASSISTANCE.

(a) **IN GENERAL.**—The Secretary of Agriculture shall provide landowners with technical assistance to assist the owners in complying with the terms of plans (as included in agreements and easements) under the healthy forests reserve program.

(b) **TECHNICAL SERVICE PROVIDERS.**—The Secretary of Agriculture may request the services of, and enter into cooperative agreements with, individuals or entities certified as technical service providers under section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842), to assist the Secretary in providing technical assistance necessary to develop and implement the healthy forests reserve program.

#### SEC. 506. PROTECTIONS AND MEASURES

(a) **PROTECTIONS.**—In the case of a landowner that enrolls land in the program and whose conservation activities result in a net conservation benefit for listed, candidate, or other species, the Secretary of Agriculture shall make available to the landowner safe harbor or similar assurances and protection under—

(1) section 7(b)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)); or

(2) section 10(a)(1) of that Act (16 U.S.C. 1539(a)(1)).

(b) **MEASURES.**—If protection under subsection (a) requires the taking of measures that are in addition to the measures covered by the applicable restoration plan agreed to under section 503, the cost of the additional measures, as well as the cost of any permit, shall be considered part of the restoration plan for purposes of financial assistance under section 504.

#### SEC. 507. INVOLVEMENT BY OTHER AGENCIES AND ORGANIZATIONS.

In carrying out this title, the Secretary of Agriculture may consult with—

- (1) nonindustrial private forest landowners;
- (2) other Federal agencies;
- (3) State fish and wildlife agencies;
- (4) State forestry agencies;
- (5) State environmental quality agencies;
- (6) other State conservation agencies; and
- (7) nonprofit conservation organizations.

#### SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

- (1) \$25,000,000 for fiscal year 2004; and
- (2) such sums as are necessary for each of fiscal years 2005 through 2008.

### TITLE VI—PUBLIC LAND CORPS

#### SEC. 601. PURPOSES.

The purposes of this title are—

(1) to carry out, in a cost-effective and efficient manner, rehabilitation, enhancement, and beautification projects;

(2) to offer young people, ages 16 through 25, particularly those who are at-risk or economically disadvantaged, the opportunity to gain productive employment and exposure to the world of work;

(3) to give those young people the opportunity to serve their communities and their country; and

(4) to expand educational opportunities by rewarding individuals who participate in the Public Land Corps with an increased ability to pursue higher education or job training.

#### SEC. 602. DEFINITIONS.

In this title:

(1) **ALASKA NATIVE CORPORATION.**—The term “Alaska Native Corporation” means a Regional Corporation or Village Corporation, as defined in section 101(11) of the National and Community Service Act of 1990 (42 U.S.C. 12511(11)).

(2) **CORPS.**—The term “Corps” means the Public Land Corps established under section 603(a).

(3) **HAWAIIAN HOME LANDS.**—The term “Hawaiian home lands” means that term, within the meaning of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(4) **INDIAN LANDS.**—The term “Indian lands” has the meaning given the term in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(5) **SECRETARIES.**—The term “Secretaries” means—

- (A) the Secretary of Agriculture; and
- (B) the Secretary of the Interior.

(6) **SERVICE AND CONSERVATION CORPS.**—The term “service and conservation corps” means any organization established by a State or local government, nonprofit organization, or Indian tribe that—

(A) has a demonstrable capability to provide productive work to individuals;

(B) gives participants a combination of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values through service to their communities and the United States.

(7) **STATE.**—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico;
- (D) Guam;
- (E) American Samoa;
- (F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

#### SEC. 603. PUBLIC LAND CORPS.

(a) **ESTABLISHMENT.**—There is established a Public Land Corps.

(b) **PARTICIPANTS.**—The Corps shall consist of individuals who are enrolled as members of a service or conservation corps.

(c) **CONTRACTS OR AGREEMENTS.**—The Secretaries may enter into contracts or cooperative agreements—

(1) directly with any service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects; or

(2) with a department of natural resources, agriculture, or forestry (or an equivalent department) of any State that has entered into a contract or cooperative agreement with a service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects.

(d) **PROJECTS.**—

(1) **IN GENERAL.**—The Secretaries may use the members of a service and conservation corps to perform rehabilitation, enhancement, or beautification projects authorized by law.

(2) **INCLUDED LAND.**—In addition to Federal and State lands, the projects may be carried out on—

(A) Indian lands, with the approval of the applicable Indian tribe;

(B) Hawaiian home lands, with the approval of the relevant State agency in the State of Hawaii; and

(C) Alaska native lands, with the approval of the applicable Alaska Native Corporation.

(e) **PREFERENCE.**—In carrying out this title, the Secretaries shall give preference to projects that will—

(1) provide long-term benefits by reducing hazardous fuels on Federal land;

(2) instill in members of the service and conservation corps—

- (A) a work ethic;
- (B) a sense of personal responsibility; and
- (C) a sense of public service;

(3) be labor intensive; and

(4) be planned and initiated promptly.

(f) **SUPPORTIVE SERVICES.**—The Secretaries may provide such services as the Secretaries consider necessary to carry out this title.

(g) **TECHNICAL ASSISTANCE.**—To carry out this title, the Secretaries shall provide technical assistance, oversight, monitoring, and evaluation to—

(1) State Departments of Natural Resources and Agriculture (or equivalent agencies); and

(2) members of service and conservation corps.

#### SEC. 604. NONDISPLACEMENT.

The nondisplacement requirements of section 177(b) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)) shall apply to activities carried out by the Corps under this title.

#### SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$15,000,000 for each of fiscal years 2004 through 2008.

### TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

#### SEC. 701. PURPOSE

The purpose of this title is to assist in the economic revitalization of rural forest resource-dependent communities through incentives to promote investment in private enterprise and community development by—

- (1) the Department of Agriculture;
- (2) the Department of the Interior;
- (3) the Department of Commerce;
- (4) the Small Business Administration;
- (5) land grant colleges and universities; and
- (6) 1890 Institutions.

#### SEC. 702. DEFINITIONS.

In this title:

(1) 1890 INSTITUTION.—The term “1890 Institution” has the meaning given the term in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

- (A) a unit of State or local government;
- (B) an Indian tribe;
- (C) a nonprofit organization;
- (D) a small forest products business;
- (E) a rural forest resource-dependent community;
- (F) a land grant college or university; or
- (G) an 1890 institution.

(3) ELIGIBLE PROJECT.—The term “eligible project” means a project described in section 703 that will promote the economic development in rural forest resource-dependent communities based on—

- (A) responsible forest stewardship;
- (B) the production of sustainable forest products; or
- (C) the development of forest related tourism and recreation activities.

(4) FOREST PRODUCTS.—The term “forest products” means—

- (A) logs;
- (B) lumber;
- (C) chips;
- (D) small-diameter finished wood products;
- (E) energy biomass;
- (F) mulch; and
- (G) any other material derived from forest vegetation or individual trees or shrubs.

(5) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an organization that is—

- (A) described in section 501(c) of the Internal Revenue Code of 1986; and
- (B) exempt from taxation under 501(a) of that Code.

(6) PROGRAM.—The term “program” means the rural community forestry enterprise program established under section 703.

(7) SMALL FOREST PRODUCTS BUSINESS.—The term “small forest products business” means a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) that is classified under subsector 113 or code number 115310 of the North American Industrial Classification System.

(8) RURAL FOREST RESOURCE-DEPENDENT COMMUNITY.—

(A) IN GENERAL.—The term “rural forest resource-dependent community” means a community located in a rural area of the United States that is traditionally dependent on forestry products as a primary source of community infrastructure.

(B) INCLUSIONS.—The term “rural forest resource-dependent community” includes a community described in subparagraph (A) located in—

- (i) the northern forest land of Maine;
- (ii) New Hampshire;
- (iii) New York;
- (iv) Vermont;
- (v) the Upper Peninsula of Michigan;
- (vi) northern California;
- (vii) eastern Oregon;
- (viii) the Bitterroot Valley of Montana;
- (ix) the northern panhandle of Idaho; and
- (x) other areas, as determined by the Secretary.

(9) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

#### SEC. 703. RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Forest Service a program to be known as the “Rural Community Forestry Enterprise Program”.

(2) COORDINATION.—In carrying out the program, the Secretary shall coordinate with—

- (A) the Small Business Administration;
- (B) the Economic Development Administration;

(C) land grant colleges and universities;

(D) 1890 institutions; and

(E) other agencies of the Department of Agriculture that administer rural development programs.

(b) PURPOSES.—The purposes of the program are—

(1) to enhance technical and business management skills training;

(2) to organize cooperatives and marketing programs;

(3) to establish and maintain timber worker skill pools;

(4) to establish and maintain forest product distribution networks and collection centers;

(5) to facilitate technology transfer for processing small diameter trees and brush into useful products;

(6) to develop, where support exists, a program to promote science-based technology implementation and technology transfer that expands the capacity for small forest product businesses to work within market areas;

(7) to promote forest-related tourism and recreational activities;

(8) to enhance the rural forest business infrastructure needed to reduce hazardous fuels on public and private land; and

(9) to carry out related programs and activities, as determined by the Secretary.

(c) FOREST ENTERPRISE CENTERS.—The Secretary shall establish at least 1 Forest Enterprise Center at each Research Station of the Forest Service, to be located at a forest science laboratory—

(1) to carry out eligible projects; and

(2) to coordinate assistance provided to small forest products businesses with—

(A) the Small Business Administration, including the timber set-aside program carried out by the Small Business Administration;

(B) the Rural Utilities Service, the Rural Housing Service, and the Rural Business-Cooperative Service of the Department of Agriculture; and

(C) the Economic Development Administration, including the local technical assistance program of the Economic Development Administration.

(d) FOREST ENTERPRISE TECHNICAL ASSISTANCE AND GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Forest Enterprise Centers established under subsection (c), shall establish a program to provide technical assistance and grants to eligible entities to carry out eligible projects.

(2) CRITERIA.—The Secretary shall work with each Forest Enterprise Center to develop appropriate program review and prioritization criteria for each Research Station.

(3) MATCHING FUNDS.—Grants under this section shall—

(A) not exceed 50 percent of the cost of an eligible project; and

(B) be made on the condition that non-Federal sources pay for the remainder of the cost of an eligible project (including payment through in-kind contributions of services or materials).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$15,000,000 for each of fiscal years 2004 through 2008.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

##### SEC. 801. FOREST INVENTORY AND MANAGEMENT.

Section 17 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 note; Public Law 95313) is amended to read as follows:

##### “SEC. 17. FOREST INVENTORY AND MANAGEMENT.

“(a) IN GENERAL.—The Secretary shall carry out a program using geospatial and information management technologies (including remote sensing imaging and decision support systems) to inventory, monitor, characterize, assess, and identify forest stands and potential forest

stands (with emphasis on hardwood forest stands) on—

“(1) in units of the National Forest System; and

“(2) on private forest land, with the consent of the owner of the land.

“(b) MEANS.—The Secretary shall carry out the program through the use of—

“(1) remote sensing technology of the National Aeronautics and Space Administration and the United States Geological Survey;

“(2) emerging geospatial capabilities in research activities;

“(3) validating techniques using application demonstrations; and

“(4) integration of results into pilot operational systems.

“(c) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

“(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, acid deposition, and weather-related risks and other episodic events);

“(2) loss or degradation of forests;

“(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

“(4) quantification of carbon uptake rates; and

“(5) management practices that focus on preventing further forest degradation.

“(d) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

“(1) isolate and treat a threat before the threat gets out of control; and

“(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2004 through 2009.”

##### SEC. 802. PROGRAM FOR EMERGENCY TREATMENT AND REDUCTION OF NONNATIVE INVASIVE PLANTS.

(a) DEFINITIONS.—In this section:

(1) INTERFACE COMMUNITY.—The term “interface community” has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(2) INTERMIX COMMUNITY.—The term “intermix community” has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(3) PLANT.—The term “plant” includes—

- (A) a tree;
- (B) a shrub; and
- (C) a vine.

(4) PROGRAM.—The term “program” means the program for emergency treatment and reduction of nonnative invasive plants established under subsection (b)(1).

(5) SECRETARIES.—The term “Secretaries” means the Secretary of Agriculture and the Secretary of the Interior, acting jointly.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretaries shall establish a program for emergency treatment and reduction of nonnative invasive plants to provide to State and local governments and agencies, conservation districts, tribal governments, and willing private landowners grants for use in carrying out hazardous fuel reduction projects to address threats of catastrophic fires that have been determined by the Secretaries to pose a serious threat to—

- (A) property;
- (B) human life; or
- (C) the ecological stability of an area.



(2) **COORDINATION.**—In carrying out the program, the Secretaries shall coordinate with such Federal agencies, State and local governments and agencies, and conservation districts as are affected by projects under the program.

(c) **ELIGIBLE LAND.**—A project under the program shall—

(1) be carried out only on land that is located—

(A) in an interface community or intermix community; or

(B) in such proximity to an interface community or intermix community as would pose a significant risk in the event of the spread of a fire disturbance event from the land (including a risk that would threaten human life or property in proximity to or within the interface community or intermix community), as determined by the Secretaries;

(2) remove fuel loads determined by the Secretaries, a State or local government, a tribal government, or a private landowner to pose a serious threat to—

(A) property;

(B) human life; or

(C) the ecological stability of an area; and

(3) involve the removal of nonnative invasive plants.

(d) **USE OF FUNDS.**—Funds made available for a project under the program shall be used only for—

(1) the removal of plants or other potential fuels that are—

(A) adjacent to or within the wildland urban interface; or

(B) adjacent to a municipal watershed, river, or water course;

(2) the removal of erosion structures that impede the removal of nonnative plants; or

(3) the replanting of native vegetation to reduce the reestablishment of nonnative invasive plants in a treatment area.

(e) **REVOLVING FUND.**—

(1) **IN GENERAL.**—In the case of a grant provided to a willing owner to carry out a project on non-Federal land under this section, the owner shall deposit into a revolving fund established by the Secretaries any proceeds derived from the sale of timber or biomass removed from the non-Federal land under the project.

(2) **USE.**—The Secretaries shall use amounts in the revolving fund to make additional grants under this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

#### **SEC. 803. USDA NATIONAL AGROFORESTRY CENTER.**

(a) **IN GENERAL.**—Section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101-624) is amended—

(1) by striking the section heading and inserting the following:

**“SEC. 1243. USDA NATIONAL AGROFORESTRY CENTER.”;**

and

(2) in subsection (a)—

(A) by striking “SEMIARID” and inserting “USDA NATIONAL”; and

(B) by striking “Semiarid” and inserting “USDA National”.

(b) **PROGRAM.**—Section 1243(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101-624) is amended—

(1) by inserting “local governments, community organizations, the Institute of Tropical Forestry and the Institute of Pacific Islands Forestry of the Forest Service,” after “entities,”;

(2) in paragraph (1), by striking “on semiarid lands”;

(3) in paragraph (3), by striking “from semiarid land”;

(4) by striking paragraph (4) and inserting the following:

“(4) collect information on the design, installation, and function of forested riparian and upland buffers to—

“(A) protect water quality; and

“(B) manage water flow;”;

(5) in paragraphs (6) and (7), by striking “on semiarid lands” each place it appears;

(6) by striking paragraph (8) and inserting the following:

“(8) provide international leadership in the worldwide development and exchange of agroforestry practices;”;

(7) in paragraph (9), by striking “on semiarid lands”;

(8) in paragraph (10), by striking “and” at the end;

(9) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(10) by adding at the end the following:

“(12) quantify the carbon storage potential of agroforestry practices such as—

“(A) windbreaks;

“(B) forested riparian buffers;

“(C) silvopasture timber and grazing systems; and

“(D) alley cropping; and

“(13) modify and adapt riparian forest buffer technology used on agricultural land for use by communities to manage stormwater runoff.”.

#### **SEC. 804. UPLAND HARDWOODS RESEARCH CENTER.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish an Upland Hardwood Research Center.

(b) **LOCATION.**—The Secretary of Agriculture shall locate the Research Center in an area that, as determined by the Secretary of Agriculture, would best use and study the upland hardwood resources of the Ozark Mountains and the South.

(c) **DUTIES.**—The Upland Hardwood Research Center shall, in conjunction with the Southern Forest Research Station of the Department of Agriculture—

(1) provide the scientific basis for sustainable management of southern upland hardwood forests, particularly in the Ozark Mountains and associated mountain and upland forests; and

(2) conduct research in all areas to emphasize practical application toward the use and preservation of upland hardwood forests, particularly—

(A) the effects of pests and pathogens on upland hardwoods;

(B) hardwood stand regeneration and reproductive biology;

(C) upland hardwood stand management and forest health;

(D) threatened, endangered, and sensitive aquatic and terrestrial fauna;

(E) ecological processes and hardwood ecosystem restoration; and

(F) education and outreach to nonindustrial private forest landowners and associations.

(d) **RESEARCH.**—In carrying out the duties under subsection (c), the Upland Hardwood Research Center shall—

(1) cooperate with the Center for Bottomland Hardwood Research of the Southern Forest Research Station of the Department of Agriculture, located in Stoneville, Mississippi; and

(2) provide comprehensive research in the Mid-South region of the United States, the Upland Forests Ecosystems Unit of the Southern Forest Research Station of the Department of Agriculture, located in Monticello, Arkansas.

(e) **PARTICIPATION OF PRIVATE LANDOWNERS.**—The Secretary of Agriculture shall encourage and facilitate the participation of private landowners in the program under this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,500,000 for each of fiscal years 2004 through 2008.

#### **SEC. 805. SENSE OF CONGRESS REGARDING ENHANCED COMMUNITY FIRE PROTECTION.**

It is the sense of Congress to reaffirm the importance of enhanced community fire protection

program, as described in section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) (as added by section 8003(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 473)).

Amend the title so as to read: “An Act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.”.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, on July 24, the Committee on Agriculture, Nutrition, and Forestry reported to the Senate H.R. 1904, the Healthy Forests Restoration Act. This bill, which is now before the Senate, reflects a comprehensive effort to improve forest health on both public and private lands. The bill provides Federal land managers the tools to implement scientifically supported management practices on Federal forests, in consultation with local communities, while establishing new conservation programs to improve water quality and regenerate declining forest ecosystem types on private lands.

The legislation will reduce the amount of time and expense required to conduct hazardous fuels projects, but it also will require rigorous environmental analysis of those projects.

Over the past few years, we have seen many communities destroyed and many firefighters' lives lost due to forest fires that could have been prevented. We are all deeply saddened by the tragic events occurring now in California. At least 17 people, we are told, have lost their lives; 1,600 homes have been destroyed, and 520,000 acres have burned.

The fires continue to wreak havoc in that State. Thousands of Californians have had to leave their homes, and more communities are being evacuated at this very moment.

On Monday, President Bush declared the region a disaster area. The cost resulting from these fires is estimated in the billions of dollars. The tools and resources this legislation provides land managers will assist in preventing the devastation resulting from forest fires.

In the past, the U.S. Forest Service has been forced to spend great amounts of time and resources battling lawsuits instead of managing the forests. The result has been months and even years of delays in fuel reduction projects. Our forests have continued to suffer, and they have continued to burn.

I have filed, along with 13 cosponsors, an amendment to title I of the bill which contains several modifications to the bill the committee reported.

I offer that amendment to the bill.

AMENDMENT NO. 1828

The PRESIDING OFFICER. The clerk will report.



The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself, Mr. CRAPO, Mr. DOMENICI, Mrs. LINCOLN, Mr. CRAIG, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BAUCUS, Ms. MURKOWSKI, Mr. THOMAS, Mr. DASCHLE, Mr. BURNS, and Mr. JOHNSON, proposes an amendment numbered 1828.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. COCHRAN. Mr. President, this amendment embodies recommendations made by a bipartisan group of Senators who are committed getting this legislation passed and signed by the President. The amendment establishes a predecisional administrative review process. It allows an additional analysis under the National Environmental Policy Act. It directs the Secretary of Agriculture to give priority to communities and watersheds and hazardous fuel reduction projects. It contains new language protecting old-growth stands, and it encourages the courts to expedite the judicial review process.

The underlying legislation also contains a biomass title authorizing grant programs to encourage utilization of forest waste material. Another title provides financial and technical assistance to private forest land owners to encourage better management techniques to protect water quality. The pest and remote sensing titles would authorize funding for the U.S. Forest Service, land grant institutions, and 1890 institutions to plan, conduct, and promote the gathering of information about insects that have caused severe damage to forest ecosystems.

Title V, the Healthy Forest Reserve Program, is a private forest land conservation initiative that would support the restoration of declining forest ecosystem types that are critical to the recovery of threatened, endangered, and other sensitive species.

Two additional titles were added to the House-passed bill by our committee. One would establish a public land corps to provide opportunities to young people for employment and, at the same time, provide a cost-effective and efficient means to implement rehabilitation and enhancement projects in local communities. The other new title will promote investment in forest resource-dependent communities.

This legislation provides new legal authority to help us manage the Nation's forests in a safe and effective manner. The bill will help us do a better job of safeguarding these priceless national resources.

I urge the Senate to support the bill.

The PRESIDING OFFICER. Senator DASCHLE.

Mr. DASCHLE. Mr. President, I am very pleased to join my colleagues in supporting the bipartisan forest health legislation. Catastrophic wildfires rag-

ing in California today underscore the urgent need for action. We must reduce the risk that other communities and other States will face with regard to the devastation that Californians are experiencing today.

In South Dakota we also know from experience how destructive forest fires can be. In the Black Hills, we have experienced five major fires in the last 3 years. We are committed to finding a solution that will enable the Forest Service to reduce the threat of wildfire effectively and efficiently and that can become law. We must do more to expedite hazardous fuels reduction activities, and I believe this compromise will help the Forest Service to do so.

This past August I toured the Black Hills with Dale Bosworth, chief of the U.S. Forest Service. It is clear that the Forest Service needs additional tools to address the increasing fire risk to South Dakota and other State communities. Today more than 460,000 acres of the Black Hills National Forest are in moderate to high fire risk. If we do nothing, the Forest Service warns the number of acres at risk in the Black Hills will grow dramatically to more than 550,000 acres. That is unacceptable.

During our visit, Chief Bosworth asked that any reforms we undertake allow Forest Service personnel to spend less time in the office planning and more time in the forest actually clearing high fuel load.

This bipartisan compromise meets that standard, and it helps in other ways as well.

First, this legislation clarifies how much detail is needed for environmental analysis of fuel reduction projects.

Instead of analyzing anywhere from 5 to 10 alternatives—as is current practice—this bill specifies that the Forest Service must consider only three alternatives: The preferred alternative, a "no-action" alternative, and an "additional-action alternative."

The Forest Service currently spends over 50 percent of its time and money planning a given project. This will help reduce the costs of the environmental analysis and allow the Forest Service to treat more acres each year.

Second, this legislation streamlines the appeals process within the Forest Service by mirroring what is already done at the Bureau of Land Management.

In talking with Forest Service personnel in the Black Hills, one of the figures that struck me most is that 100 percent of proposed projects are appealed.

This legislation will help streamline the appeals process while still protecting the public's right to be heard before final decisions are made.

A third strength of this legislation—the pending amendment—is that it encourages speedy disposition of any projects that are challenged in court, without giving undue deference to any party.

The bottom line is that this bipartisan compromise will enable the Forest Service to spend more time conducting on-the-ground fuels-reduction projects, which is the key to reducing the risk of fire risk in America's forests and the communities that surround them.

While this compromise is not exactly the plan I would have crafted, I believe we cannot let the perfect be the enemy of the good in this situation.

I am committed to working with all of my colleagues to pass a forest health bill this year. I believe this bipartisan compromise can be enacted into law and I am hopeful that the administration will be helpful in convincing the House to join us in making that happen.

As we see today in California, the risks of delay are simply too high.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the manager of the bill. I commend the managers and the bipartisan group who worked on this bill. It is vitally needed, and I rise in strong support of it.

Mr. President, this long overdue piece of legislation will finally bring some common sense to forest management in our Nation.

Currently, conditions in our Nation's forests are terrible. The poor state of our forests is due in large part to a lack of active forest management efforts to reduce undergrowth and remove dead and dying trees to restore forest health. According to the Society of American Foresters, "As a result of 80 years of fuels accumulation and several years of drought, the potential for catastrophic wildfire is at an all time high in many regions of the United States."

An estimated 190 million acres of Federal forests and rangelands in the United States, an area twice the size of California, face a high risk of catastrophic wildfire. Decades of an accumulation of dense undergrowth and brush, along with drought, insect infestation and disease, and the presence of invasive exotic species have made our forests vulnerable to these environmentally destructive wildfires.

According to Secretary of Agriculture, Ann Venman, last year was the second worst fire season in modern history with over 7.2 million acres burned—an area larger than Maryland and Rhode Island combined. The States of Arizona, Colorado, and Oregon registered their largest and most destructive wildfires ever. It was also the most expensive fire season ever costing Federal taxpayers \$1.6 billion. When the season ended, 23 firefighters were dead, tens of thousands of people fled their homes and more than 2,000 buildings were destroyed. This devastation was only eclipsed by the 2000 fire season where more than 8 million acres of forests burned at a Federal cost of \$1.4 billion.

This year, as of the first week in October, we have had a total of 67,500 fires

that have burned over 3.2 million acres at a cost of over \$550 million. Worse than that, over 20 wildland firefighters have lost their lives this year.

The time for addressing the problem of our unhealthy forests is long overdue. Current efforts to reduce excessive fuel loads, underbrush, and dead and dying trees are taking for too long due to senseless bureaucratic delay. According to the U.S. Forest Service, it can take up to 8 years to plan and execute relatively routine fuels reduction projects—8 years. Does anyone here believe that this is responsible forest management?

In May of this year, the Government Accounting Office (GAO) released the results of a survey that confirms that the large numbers of appeals filed by environmental interest groups are delaying efforts to restore the health of our Nation's forests through the thinning of overgrown and diseased areas. These delays increase the threat of severe forest fires which threaten human life, old growth trees, habitat for endangered species and private property. These endless and meritless appeals result in nothing but inaction and increased bureaucratic costs.

If we do not address this problem now, we risk losing many of America's most pristine forests to wildfire devastation. Congress needs to pass legislation to streamline and expedite these forest thinning and fuels reduction efforts.

I believe the H.R. 1904 will accomplish this goal. The Senate compromise to H.R. 1904 is designed to cut through unnecessary red tape and speed up the review and approval process for forest health restoration projects, while at the same time preserving the appropriate environmental review process.

Specifically this bill establishes procedures to expedite forest and rangeland restoration projects focusing on lands near communities in the wildland urban interface; that are in condition class 3 (high fire risk) areas located in proximity to a municipal watershed or water supply system; that provide important habitat for endangered species where the risk of catastrophic wildfire threatens these species; and where insect infestation, disease and old age are destroying forests and increasing the chance of wildfire.

The Senate compromise also contains language for the protection of old growth or large trees in the implementation of hazardous fuels reduction projects. This legislation requires authorized hazardous fuels reduction projects to be consistent with the applicable forest and resource management plans, along with other administrative policies or decisions applicable to Federal land. The amount of acreage eligible for authorized fuels reduction projects under this legislation is limited to 20 million acres.

In addition to allowing for an environmental assessment and expedited administrative appeals, this legislation does allow for judicial review. As a part

of this review, this bill requires lawsuits to be filed in the district court where the project is located. It limits temporary injunctions to 60-days, subject to renewal. Finally, this legislation directs the courts to balance the short- and long-term environmental effects of undertaking a project versus those of not undertaking a project.

The problem of excessive forest fuels build is not just a Western problem. It is a National problem. The expedited reduction of forest fuels and the thinning of underbrush would greatly improve the health of Missouri's forests. There has been a significant increase in the buildup of these fuels in National and State Forest land in the State of Missouri as a result of recent tornadoes, several years of drought, oak decline and oak mortality.

Oak mortality is the most pressing problem in Missouri's forests. As of January 2003, oak mortality due to drought, insects, and fungi have affected 41 percent of the Mark Twain National Forest's 1.5 million acres, and caused an estimated loss of more than 30 million dollars' worth of red oak timber. Dead limbs and debris in this area also reduce food for wildlife, and contribute to fuels buildups, which increases the dangers of wildfires. In turn, these wildfires endanger wildlife habitat areas, healthy watersheds and neighboring private lands.

Missouri also has huge volume of dying forest land throughout southern Missouri as a result of infestation by an insect known as the red oak stem bore.

According to Dr. Gene Garrett of the University of Missouri School of Natural Resources, who has studied and taught forestry for over 33 years, "Roughly 33 percent of the 23 million acres of the interior highlands in the scenic Missouri Ozarks are infested by this red oak stem bore. Dr. Garrett goes on to say that "this insect and associated disease complex is by far the greatest threat to the oak component of the interior highlands." This has resulted in over \$1.1 billion worth of timber at risk and an increased threat of wildfire in this area.

H.R. 1904 will address most of the forest health issues in Missouri and prioritize them for expedited cleanup. Section 102(a)(4) of this health forest legislation will specifically address this problem of red oak stem bore and oak decline.

The first of Missouri's two fire seasons is now underway. The most recent high wildfire season in Missouri occurred in 2000 when over 8,700 acres of wooded lands burned—more than 3,000 acres over the 10-year average. By expediting the cleanup or thinning of our forests, Missouri and the rest of the Nation can expect to see the risk of these catastrophic wildfires reduced.

In closing, I believe that H.R. 1904 represents a commonsense approach to forest management based on sound science. I have talked with forest scientists all over the country, including

several from my own State, and they believe that this legislation takes the right approach to restoring the health of our Nation's forests. These are actual forest scientists who know what they are talking about—not big city newspaper editorial writers.

If we do not act on this problem right now, vast acres of old growth trees and wildlife habitat will remain at a high risk of catastrophic wildfire. Once these areas are destroyed by fire, there will be very little, if anything, that we can do to restore them to health. Therefore, I urge my colleagues to vote for H.R. 1904, the Healthy Forests Restoration Act of 2003. It is time to put some common sense back into forest management.

It is long past time that we get this done. I really thank the bipartisan group that came together for this extremely important and most needed forest health measure. Again, I urge my colleagues to support it and move it expeditiously.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, forestry can often make Middle East politics seem noncontroversial. I think it is fair to say that today it would be hard to find a topic that is more emotionally flammable than the one that has come to the Senate today.

I begin by saying that right now, my home State—and I see my good friend, Senator SMITH, on the Senate floor as well—is sending resources to California to help deal with the horrendous fires. But I think it ought to be noted, as we begin this discussion, that just over a year ago the State of California was sending resources to my home State—the State that Senator SMITH and I are proud to represent. Just over a year ago, we were on the Senate floor speaking about the huge forest fires that raged in our State. At that time, over 500,000 acres were burning. We had a dozen fires raging at any given time. Seventeen thousand people in one of our valleys alone were on a 24-hour evacuation notice, and 2,500 structures were threatened.

So I think we ought to note, as we begin this discussion, that the legislation before us today is critical, not because of last year's tragedies, or even the tragedies that we are seeing in California today; this legislation is critical to address the tragedies and destruction that, as sure as the night follows the day, will be in the news tomorrow if the Senate doesn't start taking reasonable steps to address forest health policy. It seems to me that is the approach before the Senate today.

Mr. President, this is the bill that is going to go to the President of the United States. For many months now, a group of us—and Chairman COCHRAN has referenced this—have been involved in the negotiations. They are difficult negotiations because passions do run so strong on this issue. But I want to make it clear, for myself and the others who have signed the letter,

that we cannot accept an unraveling of this compromise; that this is the bill that is going to go to the President's desk, and we are very hopeful the President will sign that legislation into law.

It is absolutely critical that the Senate come together on a reasonable plan that is going to help our forests become healthy again and secure the well-being of the families who call these beautiful areas their home.

I believe this bill provides an opportunity to remove fire-prone materials from the forests, boost rural economies, and create family-wage jobs, while at the same time protecting the extraordinary treasures—the land and the environment of the West and our Nation—for future generations.

Let me outline for a few minutes why I think this is the approach that needs to be signed into law. First, this is the only bill—unlike the one in the other body—that authorizes a significant increase in funding for the hazardous fuels reduction projects that need to be undertaken. The other body doesn't authorize a single dollar—not one—for the projects that need to be pursued. As a result, there is tremendous concern across the country that if you were to go the route of the other body, the only people that would really be able to afford to get into the thinning work would be commercial logging companies. That would be a huge mistake. Under the bipartisan compromise that has been crafted, that is not going to happen.

Second, the other body doesn't make an effort to target the dollars in a flexible way so that the work gets done in the communities that most need it in our Nation. The Senate compromise goes to bat for our rural communities by directing that 50 percent of the funding be spent inside the wildland/urban interface where populations are great, but at the same time we can deal with these infernos, these enormous fires that so often start way out in the country and then come into the more urbanized areas.

The other body is silent on this issue. The Senate, after many hours of negotiation—my friend from Idaho and I have literally been talking about this issue for almost 5 years now—strikes a reasonable balance with respect to targeting money for the wildland/urban interface while recognizing that so many of these huge fires start in sparsely populated areas out in the country.

Third, this bill is the only one that makes a historic step forward to protect our old growth, our treasures of the West about which our citizens feel so strongly. The other body has no language at all to protect old growth or the large trees and doesn't limit how projects can be executed.

What the Senate has said is, yes, there are more than 100 definitions of what constitutes "old growth." We recognize that, but throughout the bill we reference the priority to focus on the

trees that are not old growth—the smaller trees, the brush—that contribute to this problem. And then, to ensure that there is actually an incentive to protect our old growth, we offer what I think is a creative approach, the kind of approach Senator CRAIG and I offered when we broke the gridlock on the county payments bill years ago so our communities could get revenue for schools and roads. Here, to make sure that the old growth work is a top priority, that protecting old growth is not an afterthought, we say that with respect to the old forest plans, the Forest Service would have to go back and revise the old forest plans to make sure there is actual old growth protection that is going to go forward before the thinning gets put in place.

We have an actual incentive, beyond the statutory language, which is a historic first and would protect old growth. We have a policy that would actually create incentives to prioritize old growth protection because it has to be done first under the old forest plans for thinning work to go forward.

Next, the bipartisan compromise effort keeps the current standard for judicial review of projects and ensures that what we have as a result of the changes in the judicial area, in the appeals area, sends a message across this country that citizens have a right of access with respect to their concerns about timber sales, but they don't have a constitutional right to a 5-year delay on every single timber sale.

The bipartisan group spent a great deal of time on this effort. In my view, the legislation that comes out of the other body would actually change the outcomes of these lawsuits that would rob the judiciary of the independent ability to weigh the evidence put before them. In the bipartisan compromise that was crafted, we strike a reasonable balance. Citizens are going to have a right that is undiluted with respect to access to the judicial system, but we will not set up a litigation derby that goes on for years and years and keeps the essential work from going forward.

Next, the Senate legislation ensures that the public will always be in the debate, will always be in the process and at the table. The Senate compromise allows the public to actually propose alternatives under the National Environmental Policy Act. The bill in the other body basically drives the public out of the process by predetermining these National Environmental Policy Act alternatives.

The Senate compromise preserves all current opportunities for public input and appeal while streamlining the process and eliminating some of the most frustrating and exasperating aspects of bureaucracy. But it is clear, and I want to make this point early in the debate, that not one current opportunity—not one—for public comment would be lost under this compromise.

The compromise requires the Forest Service to rewrite their appeals process

using a process that has been used by the Bureau of Land Management since 1984, and the sponsors of this compromise believe this will change a process that is now confrontational to one that is vastly more collaborative.

Finally, much of the argument made against this compromise is very similar to the arguments that were made in 1999 when I and Senator CRAIG and others got together and put before the Senate the Secure Rural Schools and Community Self-Determination Act. They said that was going to restrict the opportunities for citizens to be heard. There were some, when I offered that legislation, who said I was proposing a clear cut for kids program, and we had pickets before our office for over a year. We have some of that same sort of activity going on right now.

That did not happen in 1999 when the Senate moved forward with its first substantive forestry bill in more than a decade, and it is not going to happen again under this legislation if this bill actually becomes law.

I say to my colleagues that this legislation is needed. Some have asked, Why can't the issue of healthy forests simply be addressed by investing in the fire plan? They have said the national Governors made some recommendations, so why don't we just go ahead with those recommendations?

Their suggestions were very useful, but the Governors even acknowledge that simply spending more money, the heart of their proposal, was not the entire answer. How that money is spent is as important as simply offering more dollars.

I have made it clear that I think additional funds are critically important. That is why the Senate bill authorizes an 80-percent increase in funding for these thinning projects, but we also need to make some changes in terms of the endless paperwork and redtape to actually get the real work on the ground that is so important in communities across the West.

A number of Senators have said this is as far as they can go in terms of forestry policy. I know colleagues in the Senate and certainly in the other body feel strongly about it. But I reemphasize, as the Senator who organized that letter, that if there is an effort to unravel the compromise that will be voted on in the Senate, that will, in my view, kill the effort to pass this critically important legislation. It was an urgent priority before the tragic events in California. I think it is urgent not just because the Senate needs to respond in a heartfelt way to the tragedies in California, but if this legislation is not passed, I think we will see what happened in Oregon a little over a year ago and what has happened in California in the last week repeated again and again. I am not willing to see these communities and the people who live in them turned into residents of sacrifice zones. It is urgent this legislation be passed.

I close by expressing my thanks to those who have been part of this 5-year

odyssey and, first, to Senator CRAIG. I served as chairman of the subcommittee when he was a ranking minority member. It is vice versa now. Suffice it to say there are a lot of people in the country who would say: What in the world can LARRY CRAIG and RON WYDEN find common ground on? And we have said again and again in this area that if people are willing to look at what is practical, what is a priority in terms of the thinning work that needs to be done and in protecting our old growth treasures, we can do it. That was accomplished in the county payments bill.

It can be accomplished now. Before I wrap up my remarks, I will read into the RECORD part of a statement today that the administration has issued. It states that the administration strongly supports Senate passage of H.R. 1904, the bipartisan managers' amendment; it opposes any further amendment to assure quick resolution with the House.

I ask unanimous consent that statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### STATEMENT OF ADMINISTRATION POLICY

The Administration commends the Senate Agriculture, Nutrition, and Forestry Committee for reporting H.R. 1904, which would provide authorities and authorizations for appropriations that in large part are consistent with the President's Healthy Forests Initiative. The Administration strongly supports Senate passage of H.R. 1904 and the bipartisan manager's amendment (SA 1828), but opposes any further amendment, to assure quick resolution with the House. The Healthy Forests Restoration Act will provide the Administration with the needed flexibility to manage public lands wisely, and implement the kind of active forest management that is good for both the environment and our economy. This bill would further equip Federal land managers with the additional tools they need to restore forest health, safeguard habitat and watersheds, combat disease and insects, and protect lives and communities. The Administration is concerned that the authorization level in the Senate bill is well above recently enacted funding levels and above the increased funding levels the Administration requested and continues to support for FY 2004.

The Healthy Forests Restoration Act establishes procedures to expeditiously implement hazardous fuels reduction projects on Forest Service and Bureau of Land Management lands: (1) near communities in the wildland urban interface; (2) on high risk lands in the proximity of municipal water sources; (3) on high risk lands that encompass habitat for threatened and endangered species where federal wildlife officials have identified catastrophic wildfire as a threat to the viability of the species; and (4) on high risk landscapes particularly susceptible to disease or insect infestation. Additionally, the bill would: (1) facilitate the utilization of wood, brush, residue, and other biomass removed in conjunction with forest health projects in the production of biomass energy; (2) authorize federal programs to support community-based watershed forestry partnerships that address critical forest stewardship, watershed protection, and restoration needs at the state and local level (3) direct additional research focused on the early de-

tection and containment of insect and disease infestations; and (4) establish a voluntary private forestland easement program focused on recovering forest ecosystem types in decline.

Mr. WYDEN. I am pleased to see what is the first formal statement of the administration saying that the Senate bill is the way to go. It is an acknowledgment of the fact that a number of us said we cannot have this compromise unravel, and it is a constructive statement from the administration today. I commend them for it.

In addition to Senator CRAIG, who has worked with me on this for literally 5 years, Senator SMITH and I cannot go anywhere in our home State without people asking, when is the Senate going to respond to this? I thank him for his efforts, as well as those of Senator CRAPO, who is in the Chamber. I see Senator BINGAMAN, who has been so helpful to me as I have had to wrestle with these issues that come up in my home State day after day.

We have not agreed on every single bit of this debate for 5 years, but Senator BINGAMAN has performed an extraordinarily important service. He has some ideas on a matter that has been documented in our hearings with respect to how these funds get moved around, almost manipulated, from one account to another when there is underfunding of the thinning work that needs to be done. I thank him for all of his help over the last 5 years. We have spent many hours on this.

With the statement that I have just put into the RECORD that the administration wants this legislation and is opposed to efforts to alter it, I think we are in a position to show the country the Senate can find common ground on an issue that is about as contentious as any imaginable. I look forward to seeing the amendments of our colleagues and getting this critically important legislation passed.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Idaho.

Mr. CRAPO. Madam President, it is an honor for me to participate in this debate, not only because of the importance of this legislation, which I will talk about in a minute, but because of the process which has brought us here and what the public is now observing.

As for the last little while, they have observed leaders on both sides of the aisle talk in support of a highly contentious issue that we have been trying to bring to resolution in this country for years. Today, we have before the Senate a bipartisan solution, one that is the result of literally years of effort by a number of Senators who I will mention, and the result of a collaborative effort to bring together the Senators from various perspectives and negotiate an outcome that would have the common ground to build positive solutions for the future and much more benefit to all sides than the conflict which has been so much a part of this issue over the last few years.

I hope as this debate proceeds that the public will notice what is happening in the Senate today, as we see strong leadership from both sides of the aisle stepping forward, reaching a compromise that probably none of us would have crafted ourselves but which moves the issue much more further forward than anything we have seen in the past.

I will speak for a minute about how this came about. We have already heard several comments today about those who have worked on this from the past. It just so happens that Idaho—Senator CRAIG was on the floor and will be back in a moment—has two Senators who happen, just by circumstance, to be the chairmen of the two forestry committees in the Senate. Senator CRAIG chairs the forestry subcommittee of the Energy Committee. Senator WYDEN from Oregon, who just spoke, is his ranking member. I chair the forestry subcommittee of the Agriculture Committee. My ranking member is BLANCHE LAMBERT LINCOLN, who is a cosponsor of the base legislation, which was initially put forward in the Agriculture Committee and which became the vehicle around which these negotiations centered.

Senator CRAIG, Senator WYDEN, Senator SMITH from Oregon, myself, BLANCHE LAMBERT LINCOLN, Senator DOMENICI, the chairman of the Energy Committee, Senator COCHRAN, the chairman of the Agriculture Committee, both of the Senators from Arizona, Mr. KYL and Mr. MCCAIN, along with Senator FEINSTEIN from California, Senator BAUCUS from Montana, and other Senators came together and said: We must find a way to get past the intense battles that always bring this legislation down and find a way to build a path forward, one that protects the environment, protects the natural resource-based economy, protects our urban and rural communities, and protects the world from the environmental impacts of the devastation of these forest fires. It is that which we have before us today.

I thank my chairman, Senator COCHRAN in particular, for the strong leadership he has provided; and Senator DOMENICI and Senator CRAIG from the Energy Committee who have provided such strong and consistent leadership on this issue.

Why is it that I say this is such an important and critical issue to America? Everybody in America who is looking at the news right now is watching what is happening in California. In California, fires are raging. The death toll is mounting. The devastation to the environment is obvious. What is happening there now is an example of what has been happening across America for years, as we have fallen into an inability to implement forest management decisions in America on our public lands. I do not have the exact statistic in front of me, but I believe the 10-year average is that we have seen something in the neighborhood of 4

million acres of forest ground burn a year. For the last 4 years the numbers were approximately 3.3 million acres this year, 7 million acres last year, 3.3 or 3.7 million acres the year before, and then another 7-plus million acres the year before that.

These acres burn in devastating ways, destroying wildlife and habitat, destroying our forests, and causing other significant damage to rural and urban communities, to natural resource-based economies in States such as Idaho, where we rely on a timber economy.

Another aspect that is not often noticed is it is delivering to the atmosphere immense amounts of carbon dioxide. In fact, I am looking for some of the statistics on this, but the amount of gas that is put into the atmosphere, in terms of the kinds of debates we are having over greenhouse gases and global warming, is phenomenal. To give one example, the Hayman fire in Colorado recently was analyzed and it was determined that in 1 day of that fire's burning, it put enough CO<sub>2</sub> in the atmosphere to equal the amount of CO<sub>2</sub> that all of the cars in the United States put into the atmosphere on that day.

If we multiply that times the number of fires we have been having over the years, the load of CO<sub>2</sub> or greenhouse gases into the environment that is caused by the forest fires becomes a monumentally large issue in relationship to our efforts to control global warming.

Forest fires go from the broad issues of global warming to the narrow issues of a small community such as the community in Idaho that I recently visited, Elk City, which I at that time said was ground zero for this debate, a little community that is literally at the end of the road, in the middle of a tremendously beautiful forest in which the fuel load has been building year after year and now has a higher fuel load by several factors than the fuel load in Yellowstone when the Yellowstone fire started a few years ago.

This community has only one road in and one road out. They have been crying for support from the Federal system, to have some kind of protection of their community in terms of just what the threat is to loss of life, let alone the threat of the loss to their economy that would be caused by a forest fire. This little city, Elk City, ID, is as much involved and interested in this issue as are those who are battling over global warming issues. It is for that reason this legislation is so critical to our Nation.

I want to go over a little bit about the compromise, because the compromise we have reached today is a very broad-based critical compromise. It brings together a number of important pieces of the debate that have been counterpoints in conflict in the past and have now come together as part of a commonsense solution.

First, resources are provided in this bill for forest management at a signifi-

cant level and in a significant way. One of the things we know is that prevention is critical. Madam President, \$760 million in annual funding for fuels reduction on Federal lands has been provided in this legislation and that can be used also in related grants for State and private forestry programs. Fifty percent of these resources are required to be used in the wildland/urban interface, one of the critical areas we are now watching as the fires burn in California.

This critical wildland/urban interface is defined by local communities. We implement and follow the recommendations of the Western Governors Association as they talk about the collaborative process that needs to be put into place so citizen involvement can be enhanced in defining and implementing the protection plans for protecting our forests and the related communities, both rural and urban.

Second, this legislation for the first time in legislation proposes specific protection for old growth in the forests. Where there are old-growth stands in the forest, this legislation provides those who are implementing fuel reduction programs must protect those old-growth stands to the maximum extent they can. Conversely, it also provides that hazardous fuel reduction projects are intended to focus on small-diameter trees, thinning, and strategic fuel breaks, and should retain the large trees as appropriate for resilient stands. The point is the focus on small-diameter timber in these fuel reduction programs is going to provide opportunities for some of the communities that have been hit so hard by the reduction of logging and timber activities to find alternative sources for their economy to grow.

In Cascade, ID, we have a company that is trying to get started now, which is providing unique new ways of utilizing small-diameter timber to help in restoring and protecting our environment after fires have gone through, using the very small-diameter timber we are talking about in these forest fire prevention plans.

I should make clear, the focus on small-diameter timber is not to turn our back on the need to reform and solve the problems with regard to timber activity and logging activity. We can and should have a strong, healthy, natural-resource-based environment as well as strong, healthy forests. We can achieve those objectives. This bill is going to help us implement a number of the important provisions that will achieve those objectives.

Next, as the Senator from Oregon has already indicated, it protects public involvement. One of the things it does is it limits the number of alternatives the Forest Service must consider. Our minority leader, Senator DASCHLE, already indicated the expense and the time delay that is caused by the drive, under our current system, to force endless analysis but delaying getting to the implementation part of forest man-

agement decisions. This bill requires that in addition to the proposed fuel reduction program that is adopted by the Forest Service, the Forest Service must also consider the "no action" alternative, and at least one other alternative, if it becomes appropriate under the collaborative process that is moving forward, allowing for citizens to propose alternatives and have the Forest Service consider those alternatives as the process moves forward, but providing some relief so the Forest Service can get on with the decision-making.

In addition, what I have called litigation paralysis is addressed. One of the problems we face in forest management decisions today, possibly the biggest one, is that under our current system, no matter how much evaluation and study is put in, no matter how many alternatives are considered, at the end of the day the proposal that is adopted is litigated and we end up in paralysis through continuous litigation that simply stops the process from moving forward.

Let me give an example. A couple of years ago I went to a forest in Idaho. I was taken there by the Forest Service employees who had proposed a thinning project to address an insect infestation problem. They explained to me why this forest, both in terms of forest fire and in terms of its health and safety against insect infestation, needed to have this thinning project proceed.

I was impressed with what they taught me. I went away thinking this forest is going to have some improvement. I went back to the same forest several years later. No thinning activity had taken place. I was there with the same people. I asked them what had happened. They advised me they had their decision challenged in court and, although they had ultimately prevailed in the litigation, it was now 2 years later and it was too late. The insect infestation had gone too far; there was no point in doing the thinning project. The forest for that purpose had been lost. It is now a fire hazard, not to mention the fact the health of the forest itself has been sacrificed.

The Forest Service won the litigation, but the delay of the litigation stopped the ability to implement the management decision. That is just one example of the kind of thing we are talking about.

By the way, in that case I said, What was the issue? They explained to me the issue that was litigated.

I said, Why didn't you just concede that. It was not that big of an issue.

They said, The way we won the litigation is to basically concede that point and then ask permission from the court to go on because it really wasn't central to our efforts.

The response they gave me was: This issue was never raised as we were putting together the alternatives, going through the NEPA project. We didn't know we were going to get challenged on this or we could have accommodated it as we were moving along.

My point is that an entity, a group that wanted to stop this thinning project, sat back and let the entire process proceed without ever raising their concerns in the citizen involvement process. They waited until that entire process had come to a conclusion and then filed a lawsuit. The first time the Forest Service found out about this issue was then.

These kinds of issues are addressed in this bill. For example, we are requiring the Forest Service to develop a new appeals process that is similar to the predecisional appeals process the Department of Interior now uses. This is important, because it gives those who are concerned about good decision-making at the Forest Service, and who are already involved in the public process, the ability to challenge that through an appeal before the final decision is made, a predecisional appeal process. Then if they still do not like the outcome, nothing stops them from filing a lawsuit at the end of the process. We are expanding and enhancing the ability of involvement here by the public.

However, we are saying to individuals and groups who want to challenge these decisions you must get involved at the beginning. Those who want to challenge these decisions must show they have been involved in the process and participated in the public involvement process from the beginning. They also must show they have exhausted their administrative efforts, their administrative remedies. If they have a remedy with the Forest Service, they should go to the Forest Service through its appeals process, and exhaust that process first before simply filing a lawsuit and moving the whole process into litigation paralysis. With the enhanced citizen involvement we have provided, once a decision gets made, if there are those who are still unhappy, they have a right to file a lawsuit under this legislation.

What the courts must do at that point is expeditiously move the litigation. In the legislation the courts are encouraged to expedite these cases.

Second, this legislation limits the injunction that the court can issue to 60 days and allows continuous unlimited 60-day renewals but requires those who would come into court to simply stop anything from happening to show the court at 60-day intervals updated information that the grounds for stopping the action still exist and they haven't been resolved in some way.

Finally, it requires the court to balance the harms of what would happen if we don't do the thinning project or the proposed fuel reduction project, future harms that could come as a result of that against the current harm of what the injunction is proposed to stop. It simply requires a court to balance those harms as they evaluate whether to issue an injunction.

There are those who say the injunction should be issued no matter what because once a tree is thinned or cut it

can never be put back. The response to that is, as true as that is, if you look to the future and to the future harms, once the insects take the forest, you can't bring it back easily, and those trees are dead, too. Once the forest burns, you can't then rebuild a healthy forest that you would have been able to do had you implemented these decisions.

All we are saying in this legislation is that the court must balance the harms from inaction against the harms of the proposed action in terms of issuing the injunction.

These are important factors that will help us break the litigation paralysis but still provide significant public input and significant public support and the rights of the public to challenge the decisions made by the Forest Service.

There are a number of other important parts of this legislation. There are critics of this legislation, and I assume that at some point throughout the debate today and tomorrow—as long as it goes—there will be an opportunity and a need to respond to some of the charges about this legislation. I will not go into all of that now.

I will simply conclude by saying again what we have before us today is a bill that is probably different than any one of the Senators who came together from both sides of the aisle would have drafted if they had drafted it on their own. But it represents a bill that goes to every issue that has been the cause for stalling which has stopped us from being able to get the legislation through, and it has resulted in compromising to move us forward in every one of those areas. We provide the resources. We provide protection for old growth. We provide protection for public and citizen involvement. We assure that the process for litigation is streamlined but is still meaningful. And, most importantly, we make it so that once our forest managers—those who have studied, the scientists who know what our forests need—have come up with a plan and have made it through the public process and through litigation they will actually have a real meaningful opportunity to implement forest management decisions.

This legislation is critical for Americans. It is unfortunate that we have to be debating it while we are watching California burn. But nevertheless the pressure from the forest fires over the last few years has shown us across America that it is time for us to come together as we have on this legislation and take this important step to protect our forests, to protect our natural resource base economy, to protect our communities, and to protect the world.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Madam President, I rise today in strong support of the H.R. 1904 title I compromise reached by many of my colleagues on both sides of the aisle. I commend them for their work. The issue we take up today is vital. It

is important to our ecology and it is important to our economy.

When I first entered public life as an Oregon State Senator in 1992, the Pacific Northwest was embroiled in the spotted-owl wars. There was a great debate—and there has been ever since—about what to do with our public resources and how they ought best be managed.

In the course of this debate, I have through my public office tried to weigh in on the side of those who elected me to public trust. I come from a part of my State that is rural. I have as my neighbors farmers and foresters. I have seen in their eyes the desperation that comes from watching the slow undoing of their industry and in recent times the destruction of even their homes. I watch with great sadness as we view many of our fellow citizens from California view the ashes of their lives as a result of catastrophic fires that surround their communities and burn up their homes. Their cries are heart wrenching. I expect because they are heard so clearly in this body that we are now taking up this legislation that has long been overdue for our country's sake. But long before I heard the cries of Californians, I heard the cries of Oregonians.

In the State of Oregon, from the spotted-owl wars we have laid off tens of thousands of workers. We have watched their lives be undone in rural communities. We have closed our mills, and we have since watched our forests burn. Now my State leads this country in both hunger and in unemployment, and it has much to do with the forest policy of this country.

Timber is a renewable resource. It is the one natural resource that grows back constantly. It is safe to say—indeed even provable to say—that in the State of Oregon today there is more timber growing than when Lewis and Clark went there 200 years ago. That is because for a century while we have harvested trees, we have replanted what has been harvested. But if you listen to the great newspapers of this country, the New York Times and the Washington Post, and you actually believe what they purport to represent about my State, you would come away with the impression that we are about to cut down the last pine tree in the Pacific Northwest. But, again, the truth is much different.

What we see in California—and so often in the Pacific Northwest, Montana, Idaho, Oregon, and Washington—is that these fires, which are a normal occurrence in forests, are now on a scale that is truly haunting. We are leaving millions of acres no longer as old-growth forest but as literally moonscapes.

What I want my colleagues to understand as we go into this debate is that many of the forests which environmental groups have pled that we protect are in large part gone or in serious jeopardy. They are not gone because of logging. They are not gone because of

road building. They are not gone because of development. They are gone because of bureaucracy, bugs, and burning. Now we find that so many of our forests have carbon dioxide in the air and charcoal match sticks on the ground.

Here is a visual which shows a fire this summer around the Bend, OR, area. This is a fire the previous summer, the Biscuit Fire in the Siskiyou National Forest.

What we are finding in places such as this fire is trees aren't growing back; rather, brush is growing back so that, particularly, new trees can't grow. Yet we are not allowed to go in there and manage the soil. It is growing so thick that it may be a long time before trees ever begin to manifest themselves. The Biscuit fire was the largest in Oregon recorded history. It is also a monument to the mistaken notion that wrapping redtape around our forests will save them from wildfires. Wildfires do not stop at lines drawn on a map. This we see clearly in California today.

Another area is the Rogue, Siskiyou National Forest. So the public understands the extent of this devastation, this fire was larger than the State of Rhode Island. It was four times the size of the District of Columbia. In this forest, 85 percent of the roadless area that was designated is gone; 77 percent of the Kalmiopsis Wilderness in the same fire is gone; 68 percent of the wild and scenic river corridor is gone; over 70 percent of the spotted owl habitat in this enormous area is gone. Those birds have been burned up.

The message from the ground could not be clearer: Catastrophic wildfire, not logging, not roadbuilding, not development, is killing forests in Oregon. I like the words of Oregon's former Governor, John Kitzhaber, who, after seeing the fires, said: If we burn down the forests, we are not going to have a resource to argue over.

He was right. And we are right to pursue this legislation today.

I say to my colleagues that there may be some doing the bidding of environmental organizations that will come to the Senate and will offer amendments designed to kill this legislation, so that the health of our forests cannot be ensured.

Many of my colleagues on the Democratic side have shown enormous courage. Chief among them is my colleague, RON WYDEN, in coming up with a compromise.

I plead with all of my colleagues, Republican and Democrat, that they hold to this agreement that the Democratic leader has now endorsed. This has to happen for our country's sake. It is literally a life-and-death issue. I plead with those who have amendments to think again about it. This legislation truly needs to pass.

I was struck by a comment on the Web site of the Sierra Club. I understand one of the amendments may be a roadless initiative. That may be fine to debate in isolation or as part of a sepa-

rate piece of legislation, but if presented to frustrate this agreement, it is truly unfortunate. The Sierra Club Web site tells us that roadless forests "provide sources of clean water to millions of Americans, essential habitat for wildlife, and special places to hike, hunt, camp and fish." That is true, unless what can be seen in this picture happens to the roadless area.

We have every reason to pass this moderate legislation. Many on the Republican side would have crafted something that goes even further than this legislation. We would have done something like the House of Representatives, which I endorsed. We are now holding to this agreement. We will be voting against amendments, even ones we may like, that are designed to kill this legislation. I hope everyone will hold to the deal. If we hold to the deal here, we will hold to the deal in conference, and that will leave America's forests and America's foresters the better.

For the sake of our ecology and the sake of our economy, I urge the passage of this bill and thank all of my colleagues, Republican and Democrat, who have had a hand in crafting this Senate compromise. They have done their work and will leave our Nation better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I will talk about the bill pending and share some thoughts and concerns I have about the bill.

This is not a matter of light substance that is before the Senate. This is not a bill that we can take a wink and a nod and let it go because everyone agrees this is a unanimous consent bill. It is true that it did come out of our committee, the Agriculture Committee, on a voice vote. We reached agreements to go ahead and get it to the floor.

There are a lot of things in the bill I can agree with, that I think are good and necessary; there are some other things about which I have concerns and a lot of Senators have concerns. This is a bill that is open for amendment. There will be a number of amendments offered to this bill to try to strengthen it and to answer some concerns people have.

I am somewhat amazed when we come out with legislation and it deals with sensitive environmental issues and we are told certain environmental groups have concerns and we will hear about the environmental issues so that somehow, if you are a member of an environmental organization, you are opposed to progress, you are opposed to jobs, you are opposed to doing things that might make life better for some people in certain areas. It is almost as if "environmentalist" is a bad word. I don't think it is. I think being pro-environment and being an environmentalist is a positive attribute.

I compliment those in our country, many of whom work for nonprofit orga-

nizations. I have a number of letters from them that I will have printed in the RECORD. They toil endlessly, tirelessly, sometimes for no pay, sometimes for little pay, to ensure that future generations of Americans have a good, healthy environment, that those who like to hunt have areas in which we can hunt, where we have healthy wildlife areas.

I am proud of the fact that in our last farm bill we had the biggest increase ever in conservation, an 80 percent increase. To me, this is not only pro-environment; it is pro-economy; it is pro-jobs; it is pro-growth but growth in a way that is sustainable, not just for our time and our place but for future generations.

That is why the Healthy Forests Restoration Act of 2003 is not something that can be lightly passed through. We have to look at it and talk about it. I compliment those who have worked hard to reach agreements and tried to reach compromises on this legislation. That is all well and good. I compliment Members on both sides of the aisle. They have worked very hard to get to a point where we have a bill that has broad support. I don't deny the bill has broad support. That does not mean those who have some concerns about certain aspects of the bill could be stopped from talking about it and offering amendments. That is what the legislative process is all about.

We will proceed in that regard deliberately, not in a way to stop anything. This is not a method of slowing down the bill or taking an undue amount of time, but it is ensuring that we do look at the bill carefully; that the public is generally aware of what is in the bill; that those who perhaps do not spend a lot of time looking at these things—and I am the first to admit this is not an area of my expertise, but as the ranking member of the Agriculture Committee, charged with the responsibility of legislation that impinges upon our national forests that comes under our jurisdiction, I make sure I have good staff who understand the impact of forest legislation. And I have taken the time to study it myself to the extent I have had the time to do so.

I do not pretend to know all the ins and outs of forest legislation as much as my friend from Oregon, for example, who has spent his adult life working on this, or the Senator from Idaho and others who I know have put a great deal of time in this. But that does not lessen my concern about certain aspects of the bill and its impact on our environment. So we will have a discussion and we will have amendments.

Preventing damage and injury to communities is of paramount concern to all of us, especially now with the tragic wildfires in California that show clearly the dangers these communities face. Of course, our hearts and our thoughts go out to all those families in those communities that are affected by these wildfires.

Now, again I point out that this bill passed by a voice vote to allow us more



time in order to reach a consensus on this agreement, and that is the substitute amendment offered by Chairman COCHRAN. The vote out of the committee was not—and I wish to state this very clearly—any kind of unanimous endorsement of the bill as a whole. It was merely our agreement to move the process forward.

The legislation before us purports to focus the Federal Government's efforts to reduce the dangers of wildfire and improve forest health. Now, of course, all of us want to achieve this goal so that our communities out west can be better protected from catastrophic wildfires, so that forest areas around the country can better cope with the onset of disease and insect infestation, and so that we can improve the overall health of our national forests and public lands.

I am heartened that several Senators from both sides of the aisle have endorsed a legislative compromise to title I of the bill. This, of course, is the title that has drawn the most focus because it covers hazardous fuel reductions on Federal lands, and, as such, it is also the most controversial portion of the legislation. I believe it is a step in the right direction. I believe it comes up a little short, and that is why we will have some amendments in that area.

Again, I will say that much of the bill is worthy of support. In addition to title I, there are seven other titles, ranging from watershed forestry assistance to rural community forest enterprise programs, with others, and again the bulk of these provisions are non—I will not say not debatable, but they raise no really contentious issues. But I would like to take this time to talk a little more about title I.

Simply put, I still continue to have some serious concerns about this section. For one, the bill lacks sufficient targeting to conduct hazardous fuel work in the areas that need it the most, which likely might waste limited Government dollars. The Forest Service's own research has concluded that the areas immediately surrounding homes and structures are where the fuel cleanup should be done, as it is the most effective and cost-efficient method for reducing fire risk.

The language in the bill requires that only 50 percent of the hazardous fuel dollars be spent in what is known as the wildland/urban interface. Again, because of the bill's loose definition of the interface or of the community protection zone, land miles away from homes and other structures could qualify. Ensuring that a higher percentage of this work would be done in the areas at risk to human life and property would vastly enhance our community protection efforts.

Again, there is no definition of the size of a community. So one has to ask: Just what kind of communities are we talking about? Well, I happen to come from a town of 150 people. I live there. To me, that is a community. Two or

three houses out someplace, to me, is not.

As I was saying to my friend from Oregon earlier, if someone wants to build a house out in an area that is on the ocean, that is subject to hurricanes and tidal waves and weather such as that, they take their own risk. If they want to do that, they are at risk. If they want to go where the floods happen and a hurricane comes up and wipes a house away, well, it is not primarily the Federal Government's responsibility, it is not primarily the taxpayers' responsibility to go out and build seawalls to protect that house. If someone wants to build a house in an area where there are mud slides all the time, it is not our responsibility to come in and build up structures to protect that house from a mud slide. If they want to build it on the side of a cliff, God love them. If they can get the insurance for it, fine, but it should not be the taxpayers' responsibility.

So if someone wants to build a house out in a wilderness area, fine, I have no problem with that. They can do that. But I do not know that we then have the responsibility as taxpayers to come in and say we are going to spend millions of dollars to protect your house from a wildfire. Now, where that cutoff is, I do not know. I am not here to say the cutoff is 150 people or 200, but there has to be some better definition of structure for communities.

The way the bill is right now, we could spend a lot of money going out and cleaning out the brush. And, by the way, I will have something to say about that. We are not talking about brush. We are talking about trees. It could be miles, tens of hundreds of miles, away from any community. So again I question whether that is where we want to put our resources.

I understand there may be an amendment, or there will be an amendment offered to raise that 50 percent threshold to something more akin to 70 or 75 percent, which I think is maybe more where we ought to focus our resources, with the very few dollars that we have.

Secondly, the bill could also be interpreted to allow logging on virtually all Federal lands other than wilderness or wilderness study areas. This means national monuments and other areas could be logged in the name of wildfire prevention. The old growth language contains numerous exceptions so large that even ancient trees, trees that were around before our country was a country, could be logged.

The President traveled around the West this summer arguing that we need to remove small trees and brush from damaged forests. The scientific community agrees with him. But these same scientists tell us that cutting bigger and older trees can actually make fire risks worse. Logging, after all, is a part of what created the fire conditions that this bill is supposed to address.

Now, you might say: Well, how can that be? If you cut down trees, how can you have forest fires? Well, by logging,

by taking out certain trees, you leave a lot of brush, you leave a lot of stuff on the ground; plus, you take out some of the overhang of the ancient trees that tend to keep the risk of brushfires down; plus the fact, when you do logging, of course, you put in roads. Whenever you have a road, then you have people coming in. When you have people coming in, they are building campfires and doing things such as that, and that also increases the risk of fire.

Another problem I have with this legislation is the lack of protection for roadless areas, those areas of our national forests that have wisely been left free from most logging and road-building to ensure their protection. In fact, this bill does not restrict road-building at all—at all. So you could have permanent roads built anywhere under this bill.

If we did restrict some of this road-building, we would have less fire risk, and greater ecosystem benefits. This is because the forests in these undeveloped areas have experienced less damage by past management practices. They are much less in need of remedial work themselves. And they tend to be the furthest away from homes and communities. Moreover, scientists tell us that fires are more common and larger in developed forests. As I said earlier, roads bring people. People bring accidents that start fires.

While I am a strong believer in access to public lands, it depends on what kind of access we are talking about. We have to realize building roads to reduce fire risks can be very self-defeating. So I am concerned about a lack of protection from the building of roads in currently roadless areas.

Some people say this is a contentious issue. It is an important issue. It is one that concerns a number of environmentalists and other people around the country, especially those who have tried to protect our natural forests that have been left free from logging.

The bill also limits the reach of what may have been called the heart of NEPA, the National Environmental Policy Act. I know there are some who would like to get rid of NEPA completely, just get it off the books. There are some who would like to see that happen. But NEPA is the heart of our environmental policy. Simply put, it requires the Federal Government to look at a reasonable range of alternatives to any proposed course of action. Yet the language in this bill arbitrarily restricts a full and robust environmental analysis to only the agency's preferred alternative, a no-action alternative—which is really not an alternative because a no-action alternative means you don't do anything—and possibly one additional alternative.

It boils down to the fact that NEPA would be required to look at two alternatives, not a reasonable range of alternatives but two. The one alternative doesn't even have to be environmentally preferable. It could be a proposal for more and heavier logging of

big trees. Again, this effectively undermines what has been called the heart of NEPA; that is, to look at a reasonable range of alternatives to a proposed agency course of action.

What this bill basically could leave us with is one alternative. That is not what NEPA was intended to do. It calls for a reasonable range of alternatives. This effectively undermines a landmark law of immense value—a landmark law that has been in existence for about 30 years.

We will hear from some who say that the NEPA analysis takes time; it costs money. What we won't hear is how important this time and money is for realizing better outcomes.

NEPA analysis is designed to ensure that more effective or more efficient approaches are considered before an agency reaches a final decision on how to proceed with a project. Too little attention has been paid to date to the fact that thinning may or may not be effective in reducing fire risk. The scientists tell us that it needs to be designed carefully and in light of many site-specific factors, if it is likely to succeed.

There is the general perception that if we just go out and clear out all that underbrush and take out trees, certain trees, it is going to protect us from forest fires. That may or may not be true, depending upon the site and the specificity of what they are doing. That is exactly why we need good, solid NEPA—National Environmental Policy Act—analysis for this work, particularly the larger the projects and trees involved and the more sensitive the places. Otherwise, if we don't consider alternatives, we will be wasting time and taxpayers' money that we can't spare on projects that don't help and may even hurt in terms of protecting against wildfire.

We ought to look more closely at the Forest Service and Bureau of Land Management inefficiencies in carrying out their NEPA obligations rather than attacking what has been referred to as the Magna Carta of environmental law. Routine forest health projects can confidently proceed without lengthy environmental review, as long as they stick to small trees and brush, developed forests, and no new roads. Once you get into that, that is when we need the environmental review.

I also want to make clear from the beginning that you will hear a lot of talk about small trees and brush. It is my understanding that these small trees can go up to 12 inches or greater in diameter and that these are the trees that loggers want now. These seem to be what is in demand. I am not a contractor. I don't build houses and stuff like that. But I am to understand that these are the ones most in demand right now, trees up to 12 inches and greater in diameter. That is a pretty good size tree. That is not brush. But that is what we are talking about here, going out and clearing those trees.

That is why we need a good, healthy NEPA analysis of what we are talking about, what the alternatives could be.

The bill before us also exempts hazardous fuel projects from the normal administrative appeals process for what we are told will be something similar to the BLM's appeals process. This predecisional process, it is argued, will help expedite projects toward their completion by making projects more collaborative and less confrontational.

But this new, undefined process threatens to cut out or unfairly limit citizen participation in agency decisions. The bill currently does not have meaningful standards for the new process to ensure that all the talk we hear about preserving public participation is fulfilled.

Let me repeat that. The bill before us does not have meaningful standards to ensure that we preserve public participation to the fullest. This is not good public policy. These national forests belong to us all. They belong to you and they belong to me. They belong to you and they belong to our kids and our grandkids and future generations. The public ought to be participating and should be heard and should have meaningful participation in agency decisions regarding forest policy. The bill should spell out the Forest Service appeals process. It does not do that. So we don't really know how the public is going to be involved. The language may provide too much discretion and too little accountability to the public. This needs to be cleared up.

Let me say a few words about the judicial review provisions of the legislation. I do not believe they represent a major response to the situation. Among other things, the bill limits preliminary injunctions to 60 days. You do have the right to renew, but it limits it to 60 days and stipulates that courts balance the short- and long-term effects of undertaking and not undertaking a hazardous fuels reduction project.

The limit on injunctions will make additional work for judges that could actually slow them down in reaching a final decision. The balance-of-harms language in the bill is unnecessary and intrusive, as courts have always done this. Moreover, the presence in this bill of that language could be read as implying direction to change the current process in some way. This could tilt the scales to one side or another regardless of the facts in a particular case.

Again, let me point out something else we hear about: the flood of lawsuits. There is no flood of lawsuits clogging up the courts and preventing us from moving ahead in hazardous rules reduction projects. The GAO study of hazardous fuel reduction projects found that only 3 percent of all fuels cases were litigated in 2000 and 2001, covering only 100,000 acres.

I will repeat that. Our GAO—our investigator—found only 3 percent of the hazardous fuels cases were litigated in

2000 and 2001, and plaintiffs were often not environmental groups but local communities, outdoor enthusiasts, and timber interests. Of the 762 cases, only 4 were delayed by court order during the litigation. Again, out of 762 cases, only 4 were delayed by court order during the litigation, and that is about five-tenths of a percent of all the cases.

Yet we are told we have to do something here to clean up the plugging up of our courts by all these environmentalists, that litigate and come to court to stop the agency from proceeding. Nonsense.

With regard to appeals of agency decisions, the argument that there is some sort of crisis holding up these projects simply doesn't hold water. The Forest Service and the Bureau of Land Management's own database lists about 3,500 fuels reduction projects they conducted between 1998 and 2002. About 250 were appealed. Out of 3,500 projects, 250 were appealed. This is about 7 percent. There is a 7-percent appeals rate for all of their fuels reduction projects nationwide. In other words, by the agencies' own count, 93 percent of their projects went through with no appeal whatsoever. Yet we are told there is some sort of "appeal crisis." Well, the facts just don't support that.

The GAO and similar studies have found the main reasons that projects could not proceed were weather related and the diversion of funds to fight wildfires. Now we are getting to the crux of it. Roughly a third of the delays were due to a shift in money from preventative projects to firefighting, which last year cost more than \$1 billion. That is why we need more resources out there—not to shift the resources we have now but to have more resources out there for preventative projects.

Again, the main reason the projects could not proceed, according to the GAO, is weather related and the diversion of funds for wildfires. Other reasons include public resistance, regulatory demands, unpredictable funding, and inadequate staffing within the agencies.

Yet the administration and some of my colleagues would have us believe the agencies cannot get the work done due to appeals and litigation by environmentalists and environmental organizations. This simply is not true.

Well, are there some problems getting the work done? Yes, there are. Does this bill have provisions, including new programs, that are worthwhile? Yes, I have already stated that to be the case. There are a lot of good aspects to this bill. Is this bill the best way to protect our at-risk communities and the environment from wildfire, disease, and pest infestation? Well, I don't think so. I think there could be some changes made to this bill that would make it even better.

What is even more troubling about the legislation is that it comes on the heels of some very harmful actions recently taken by the administration and

the Forest Service to weaken environmental protections, weaken public participation or public scrutiny of agency action—the cumulative effect of which could be to seriously degrade the health of our national forests and public lands that the bill's proponents seek to protect.

The Administration, through regulation, has “categorically excluded timber” sales up to 1,000 acres from NEPA analysis as long as trees are cut in the name of fire prevention. So you can go in—a thousand acres would be pretty substantial in some areas. You can go in and cut down 12-inch or greater diameter trees in the name of fire prevention. No NEPA analysis is needed. They are shelving administrative appeals for these projects under NEPA; they are curtailing environmental analysis for entire forest management plans and ending public appeals of the plans. Proponents of this bill are even cutting out endangered or threatened species consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and preparing to jettison protections for roadless areas.

In other words, the administration has taken a largely one-sided view of Federal forest management. That is, thin or cut first and minimize environmental protections and public input through the regulatory and legislative process.

The upshot is that, combined with this bill as it now stands, we could see widespread, heavy logging of mature trees, even in pristine roadless areas, without the benefit of public environmental review, pursuant to over-arching plans that also lack NEPA compliance, bereft of interagency consultation or meaningful public appeals, and subject only to modified judicial review. In this scenario, there could be a major increase in Federal timber sales with little public understanding or input and even less agency accountability. I believe this is bad governing, bad policy, pure and simple.

Now, while I recognize the legislation probably has the votes to pass, I believe we can and should do better. There will be amendments to attempt to do this. We have seen several alternative bills offered in the past several months. We should better target funds to have work done in this wildland/urban interface, as it is called, or the community protection zones. We should vastly increase funding for hazardous fuels work on Federal and non-Federal lands. That is the crux of it. We should have more comprehensive protection of old-growth and large fire-resistance trees. We should avoid unnecessary and largely unprecedented attacks to our independent judiciary. And we must maintain full and vigorous public participation in the care of our national forests and public lands, while expediting projects to reduce wildfire risks to at-risk communities.

As I have said before, these public lands and these national forests belong

to us all, not to a timber company, not to someone who builds a beautiful home out in the middle of a wilderness area and wants us to spend taxpayer dollars to protect them from a wildfire. These national forests belong to all of us, and public participation and agency decisions dealing with public lands and public forests ought to be in the forefront, not in the background.

Otherwise, if we move ahead in this manner, we are inviting the waste of limited time and resources that it is our responsibility to ensure are directed at stated priorities of community protection and removal of small trees and brush. As drafted, I am concerned that this bill will not accomplish that urgent goal, will not ensure adequate public participation, and will not help to end the controversy and gridlock that has plagued this issue for some years.

I hope we will have a reasonable debate on this bill. Certainly, there will be amendments to it; I don't know how many and who will offer them. Some have come to me saying they had amendments to offer. I think they will take some time to dispense with, which is appropriate given the significance of the policy changes proposed in H.R. 1904. We must carefully scrutinize what is in the bill and see if there are ways to improve it.

I ask my colleagues on both sides to wait and see how these amendments proceed before judging the ultimate merit of this legislation.

Madam President, in closing, I wish to have printed in the RECORD some material. First is an editorial that appeared this morning in the Washington Post called “Fire Damage.” I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### FIRE DAMAGE

With terrifying intensity, fires are burning across Southern California and Mexico this week, proving once again that natural disasters can be no less devastating than the man-made kind. They have already killed more than a dozen people, destroyed more than 1,500 homes and burned half a million acres. A staggering 50,000 more homes are thought to be under threat, as the fires, fanned by desert winds, move into the Los Angeles and San Diego suburbs. It's a genuine national tragedy—and one that shouldn't be misused for political purposes.

Unfortunately, that is a distinct possibility. The fires happen to have arrived just as the Senate is wrestling with a bill, already passed by the House, which is supposedly designed to help prevent catastrophic fires. In theory, the bill would address the environmental imbalance that has developed over the past several decades from the Forest Service's misguided policy of preventing all forest fires, even the low-level fires that once cleared away brush and young trees from old forests. Without these periodic fires, forests have become much denser, and big fires are far more damaging than they used to be.

But although foresters and scientists now recognize this problem, brush is still not being cleared away fast enough. Why? The

House Republican authors of the forest bill blame overly bureaucratic environmental regulations. Accordingly, their bill attempts to loosen the procedures that the Forest Service must go through before it can carry out “fuel reduction activity”—a change that would also help the timber industry dodge objections to the cutting down of older forests. This explanation does not stand up to close scrutiny. Last week, the General Accounting Office released the final results of its study on fuel reduction activity and discovered that of the Forest Service's 818 applications to cut brush, only one-quarter were appealed. Of these, 79 percent were processed within 90 days. What is hampering the process is not environmental litigators but finances. To carry out more brush-clearing operations, the Forest Service needs more resources.

But the Forest Service is unlikely to get significantly more resources anytime soon. It would therefore make sense for Congress, instead of passing laws that appear to be largely of benefit to the timber industry, to encourage the Forest Service to spend whatever money it does have on brush-clearing projects closer to human communities. Sen. Dianne Feinstein (D-Calif.) has helped write a compromise bill that would instruct the Forest Service to spend at least 50 percent of its fuel reduction resources on precisely that. Although this is the right approach, Ms. Feinstein has received no guarantee that her bill won't be completely rewritten by a Republican conference committee, as has lately become common practice.

In the absence of such a guarantee—which would have to come from the White House—it's probably better to pass no bill at all. We retain just the slimmest hope that the California blazes might cause members of Congress to redirect their energy toward saving people and homes, and away from helping loggers cut down mature trees.

Mr. HARKIN. Madam President, the editorial basically states that what is happening in California is a genuine national tragedy and one that shouldn't be misused for political purposes. But, unfortunately, that is a distinct possibility, the editorial says. It says the fires happened to arrive just as the Senate is wrestling with a bill supposedly designed to help prevent catastrophic fires.

The editorial goes on to question whether or not the bill before us really does accomplish that goal.

Also, I have a series of letters from different environmental groups. When I say “environmental groups,” I do not use it in a pejorative sense. I use it in a very supportive sense. First is a letter from about 200 different environmental groups alphabetically from the Alaska Wilderness League to the Yosemite Area Audubon, California—from A to Z—that basically are opposed to this version of the bill.

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: The Senate is poised to take up H.R. 1904, the Bush Administration's Healthy Forests Initiative. You may have heard that a bipartisan compromise has been struck, reputedly brokered by the Bush Administration. Even with the new language, the bill still seeks to interfere with our independent judiciary, cuts the heart out of the

National Environmental Policy Act (NEPA), and undermines the public's legal rights to meaningfully participate in decisions affecting our public lands. Not only will this bill set dangerous precedents by weakening environmental laws and judicial independence, it also fails to require agencies to prioritize protection of homes and communities. Furthermore, the Bush Administration and its allies in the House are likely to insist on a much worse, anti-environmental bill in conference committee.

Impact on our independent judiciary: H.R. 1904, as passed by the House, undermines a fundamental, century-old legal principle—the rights of Americans to seek fair and equitable redress in the courts for grievances involving the federal government. The Senate substitute also interferes with how judges manage their courtrooms by ordering courts to lift preliminary injunctions and stays after 60 days, unless they are affirmatively renewed by the court. Moreover, the bill could provide agencies a new tool to slam the courthouse door on citizens by requiring all legal issues to be raised during the administrative review process.

Public input: The Senate substitute seeks to replace the current statutorily-established appeals process with a new process that does not allow appeals of final agency decisions, making it more difficult for Americans to challenge damaging projects and have a meaningful say in public land management.

Environmental protection: The Senate substitute seeks to weaken the most important part of NEPA—the requirement that agencies consider a full range of alternatives to agency proposals with environmental impacts such as logging and road building. The amendment invites gamesmanship by agencies that would effectively nullify the alternatives requirement, which the courts have called the very “heart of NEPA.” In addition, Title IV eliminates environmental review for a category of logging projects up to 1,000 acres in size—an area approximately the size of 1,000 football fields—which would exclude all public review, comment and participation.

Community protection: The Senate bill does not ensure any increased protections for homes at risk of wildfire and does not ensure any funding for work on local, state or tribal lands for methods proven by the Forest Service Fire Research Lab to protect homes. Furthermore, it is not consistent with the Western Governors Association's Ten-Year Strategy for reducing wildland fire risks. Communities need and deserve real protection, which requires fuel reduction focused close to homes and communities.

Old growth and roadless forests: The Senate bill attempts to safeguard our old growth forests, but the language offers an open invitation to abuse. Furthermore, the amendment fails to protect roadless areas.

The Bush Administration's “Healthy Forests Initiative” fails to deliver on community protection. Please oppose the Senate version of H.R. 1904: uphold our independent judiciary and our environmental protections.

#### NATIONAL ORGANIZATIONS

20/20 Vision.  
Alaska Wilderness League.  
Alaska Coalition.  
Alaska Rainforest Campaign.  
Americans for Democratic Action.  
American Lands Alliance.  
Conservation Leaders Network.  
Center for Biological Diversity.  
Co-op America.  
Defenders of Wildlife.  
EARTHJUSTICE.  
Friends of the Earth.  
Greenpeace USA.

Herpetologists' League.  
John Muir Project.  
National Environmental Trust.  
National Forest Protection Alliance.  
Natural Resources Defense Council.  
National Wildlife Federation.  
Pacific Rivers Council.  
Sierra Club.  
Sierra Student Coalition.  
U.S. Public Interest Research Group.  
The Rewilding Institute.  
The Wilderness Society.  
Wildlands Project.  
World Wildlife Fund.

#### COUNTY COMMISSIONERS

Supervisor David Colfax, Mendocino County, CA.  
Supervisor M. Byng Hunt, Mono County, CA.  
Board Member Carol Calabresa, Lake County, IL.  
Commissioner Peter Sorenson, Lane County, OR.  
Commissioner Farley Toothman, Greene County, PA.  
Commissioner Ed Tinsley, Lewis and Clark County, MT.  
Supervisor Paul Newman, Cochise County, AZ.  
Council Chairman Guy Guzzone, Howard County, MD.  
Commissioner Katy Sorenson, Miami-Dade County, FL.  
Council Member Bob Jacobson, Hawaii County, HI.  
Chairman Don Bennetts, Gogebic County, MI.  
Commissioner Larry Sufredin, Cook County, IL.  
Commissioner Donna Massey, Pulaski County, AR.  
Commissioner Doug Coward, St. Lucie County, FL.  
Supervisor John Woolley, Humboldt County, CA.  
Commissioner Ron Stewart, Boulder County, CO.  
Commissioner Bill Carey, Missoula County, MT.  
Supervisor Barbara Green, Nevada County, CA.  
Council Member Dan McShane, Whatcom County, WA.  
Supervisor Janet K. Beautz, Santa Cruz County, CA.

#### RELIGIOUS ORGANIZATIONS

Religious Campaign for Forest Conservation.  
United Church of Christ, Network for Environmental & Economic Responsibility.  
World Stewardship Institute.

#### REGIONAL AND LOCAL CONSERVATION ORGANIZATIONS

Advocates for the West, ID.  
American Wildlands, MT.  
Alaska Center for the Environment, AK.  
Alliance for the Wild Rockies, MT.  
Aspen Wilderness Workshop, CO.  
Audubon Society of Corvallis, OR.  
Audubon Minnesota, MN.  
BARK, OR.  
Brown Environmental Action Network, RI.  
Buckeye Forest Council, OH.  
Californians for Alternatives to Toxics, CA.  
Californians for Western Wilderness, CA.  
California Wilderness Coalition, CA.  
Cascadia Fire Ecology Education Project, OR.  
Center For Native Ecosystems, CO.  
Central New Mexico Audubon Society, NM.  
Central New Mexico Audubon Society, NM.  
Citizens of Lee Environmental Action Network, VA.  
Citizens For Better Forestry, CA.  
Citizens for Public Resources, Inc., OR.

Clearwater Biodiversity Project, ID.  
Coalition for Jobs and the Environment, VA.  
Cold Mountain, Cold Rivers, MT.  
Coast Range Association, OR.  
Colorado Environmental Coalition.  
Concerned Friends of Ferry County, WA.  
Cumberland Countians for Peace & Justice, TN.  
Devil's Fork Trail Club, VA.  
Dogwood Alliance, NC.  
Drew Environmental Action League, NJ.  
Duckdaotsu Media Service, CO.  
EarthCare, IA.  
EcoTours of Oregon Day Tours, OR.  
EcoWatch.  
Environment Council, RI.  
Environmental Protection Information Center, CA.  
Environmental Law Society, NM.  
Family Farm Defenders, WI.  
Fargo-Moorhead Audubon Society, ND.  
Friends of Blackwater Canyon, WV.  
Friends of Hope Valley, CA.  
Friends of Living Oregon Waters (FLOW), OR.  
Friends of the Bitterroot, MT.  
Friends of Del Norte, CA.  
Forests.org, Inc., WI.  
Forest Guardians, NM.  
Forest Issues Group, CA.  
Forest Forever, CA.  
Forestry Monitoring Project, CA.  
Friends of the Boundary Waters Wilderness, MN.  
Friends of the Clearwater, ID.  
Gifford Pinchot Task Force, WA.  
Greater Wyoming Valley Audubon Society, PA.  
Greater Yellowstone Coalition, MT.  
Headwaters, OR.  
Heartwood, IL.

#### REGIONAL AND LOCAL CONSERVATION ORGANIZATIONS

Hells Canyon Preservation Council, OR.  
Helping Expressions, CO.  
High Country Citizens' Alliance, CO.  
Hoosier Environmental Council, IN.  
International Society for Preservation of Tropical Rainforests, CA.  
Idaho Conservation League, ID.  
Illinois Student Environmental Network, IL.  
Indiana Forest Alliance, IN.  
International Primate Protection League.  
Izaak Walton League, Breckenridge Chapter, MN.  
John Wesley Powell Audubon Society, IL.  
Keep Sespe Wild, OR.  
Kentucky Heartwood, KY.  
Kettle Range Conservation Group, WA.  
Klamath Forest Alliance, CA.  
Klamath Siskiyou Wildlands Center, OR.  
Kootenai Environmental Alliance, ID.  
Lake Superior Alliance, WI.  
Lake Superior Greens, WI.  
Last Refuge Campaign, MT.  
Leavenworth Audubon Adopt-a-Forest, WA.  
Living Earth: Gatherings for Deep Change, OR.  
Lone Tree, MI.  
Main Natural Resources Council, ME.  
Magic, CA.  
Mattole Salmon Group, CA.  
McKenzie Guardians, OR.  
Minnesota Center for Environmental Advocacy, MN.  
Minnesota River Valley Audubon Chapter, MN.  
Missouri Forest Alliance, MO.  
Mount Shasta Bioregional Ecology Center, CA.  
Mountain Defense League, CA.  
Native Forest Network, MT.  
New Mexico Audubon Council, NM.  
New Mexico Wilderness Alliance, NM.

Northcoast Environmental Center, CA.  
 Northeastern Minnesotans for Wilderness, MN.  
 Northwest Ecosystem Alliance, WA.  
 Northwoods Wilderness Recovery, MI.  
 Obed Watershed Association, TN.  
 Okanogan Highlands Alliance, WA.  
 Oregon Natural Resources Council, OR.  
 Oregon Wildlife Federation, OR.  
 Quachita Watch League, AR.  
 Pacific Environment, CA.  
 Palos Verdes/South Bay Audubon Society, CA.  
 Prescott National Forest Friends, AZ.  
 PA Wetlands Recovery Project, PA.  
 Patrick Environmental Awareness Group, VA.  
 Rainier Audubon Society, WA.  
 Regional Assn. of Concerned Environmentalists, IL.  
 REP America, IL.  
 RESTORE: The North Woods, MA.  
 REGIONAL AND LOCAL CONSERVATION ORGANIZATIONS.  
 SAFE: Save Our Ancient Forest Ecology, CA.  
 Safe Alternatives for our Forest Environment, CA.  
 Save our Forest Environment (SAFE), CA.  
 Salem Audubon Society, OR.  
 San Bruno Mountain Watch, CA.  
 San Luis Valley Ecosystem Council, CO.  
 Selkirk Conservation Alliance, ID.  
 Serpentine Art and Nature Commons, Inc., NY.  
 Sinapu, CO.  
 Sitka Conservation Society, AK.  
 Siskiyou Regional Education Project, OR.  
 Sisters Forest Planning Committee, OR.  
 Sequoia ForestKeeper, CA.  
 Sky Island Alliance, AZ.  
 Soda Mountain Wilderness Council, OR.  
 South Fork Mountain Defense, CA.  
 Southern Appalachian Biodiversity Project, NC.  
 Southern Appalachian Forest Coalition.  
 Southern Environmental Law Center.  
 Southern Rockies Ecosystem Project, CO.  
 Southwest Forest Alliance.  
 Southwestern New Mexico Audubon Society, NM.  
 St. Louis Audubon Society, MO.  
 State Forest Organizing Initiative, OR.  
 Student Environmental Action Coalition-ISU, IL.  
 Southern Appalachian Forest Coalition, NC.  
 Students for Environmental Awareness, NJ.  
 Sun Mountain, CA.  
 Superior Wilderness Action Network, MN.  
 Sustainable Forestry Project, OR.  
 Taking Responsibility for the Earth and Environment, VA.  
 T & E, Inc., AZ.  
 The Clinch Coalition, VA.  
 The Forest Trust, NM.  
 The Lands Council, WA.  
 The Olympic Forest Coalition, WA.  
 Town Hall Coalition, CA.  
 Umpqua Watersheds, Inc., OR.  
 Virginia Forest Watch, VA.  
 Voices for the Forest, OH.  
 West Virginia Highlands Conservancy, WV.  
 Western Colorado Congress, CO.  
 Western Montana Mycological Assn., MT.  
 Western North Carolina Alliance, NC.  
 Wild Alabama, AL.  
 Wild Virginia, VA.  
 WildLaw, AL.  
 Wildlands Center for Preventing Roads, MT.  
 Wild Wilderness, OR.  
 Wilderness Study Group, CO.  
 Wisconsin Society for Ornithology, WI.  
 Whidbey Environmental Action Network, WA.

Yosemite Area Audubon, CA.

Mr. HARKIN. Madam President, I have a letter from the Forest Stewards Guild urging a vote against the Senate version of the bill, H.R. 1904. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST STEWARDS GUILD,  
*Santa Fe, NM, October 20, 2003.*

Hon. SENATOR,  
*U.S. Senate,*  
*Washington, DC.*

DEAR SENATOR: The Forest Stewards Guild, a national organization of over 500 foresters, urges you to vote against the Senate version of the Healthy Forests Restoration Act of 2003 (H.R. 1904). This is a momentous time for public forestry and we, as professionals, cannot stand by in silence. Despite the negotiation of a bipartisan compromise on H.R. 1904, the end result will set back the course of excellent forestry for years to come.

There is no doubt that the frequency and severity of wildfire has increased in the last 10 years. The catastrophic fires result, in part, from a century of narrowly prescribed forest practices applied to a wide variety of forest ecosystems. The composition, function and structure of most forests were simplified by past management, and today's forests are more susceptible to insect epidemics and vulnerable to catastrophic wildfire. The situation calls for action that addresses the root causes, not the symptoms, and that prevents further simplification of forest ecosystems.

Members of the Forest Stewards Guild are experienced managers of over 6 million acres of public and private forests in places as diverse as the Pacific Coast, Southeast, Lake States and East. Public forest management in the United States has always benefited from the experience of foresters who work on private lands, starting with Gifford Pinchot as the first Forest Service Chief. By constricting opportunities for forest decisions to be appealed and narrowing the consideration of alternatives, H.R. 1904 will cut experienced private-sector foresters out of decision-making, the exclusion of these experienced voices will make it more difficult to achieve the high standards of forestry that should exemplify public forest management.

After deep consideration we find that the Healthy Forests Restoration Act does not address the key problems causing destructive wildfire. H.R. 1904 focuses on removing perceived barriers in administrative and judicial processes, yet offers no vision of public stewardship to restore fire-adapted forests. For example, H.R. 1904 paves the way for harvesting in old growth forests to avert the impacts of natural processes, such as ice storms and insect infestations, despite the important role of these processes in creating old growth structure. H.R. 1904 also falls short in establishing meaningful monitoring requirements to help managers assess the effectiveness of fuel reduction projects at moderating fire behavior. The policies in H.R. 1904 favor intensive harvesting in the short-term without addressing the long-term maintenance of healthy forests that will ensure control of new fuel accumulation.

The current structure of forest legislation, including the National Forest Management Act, was specifically designed to address the gridlock that crystallized in the 1960s over clearcutting and type conversion of public forests. Senator Hubert Humphrey championed a program of civic discourse and debate over forest management—policies that will be reversed by the Healthy Forests Restoration Act of 2003. Legislation that sup-

presses public debate will only make the gridlock stronger. We urge you to vote against the Senate compromise of H.R. 1904.

Mr. HARKIN. Madam President, I have a letter from the League of Conservation Voters urging opposition to H.R. 1904. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEAGUE OF CONSERVATION VOTERS,  
*October 15, 2003,*

U.S. SENATE,  
*Washington, DC.*

DEAR SENATOR: The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of Members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV urges you to oppose H.R. 1904, the Bush Administration's Healthy Forests initiative, when it comes to the Senate floor. Although the Senate bill differs in some respects from the bill that passed the House earlier this year, it still fails to require agencies to prioritize protection of homes and communities. The bill would also interfere with our independent judiciary, weaken the National Environmental Policy Act (NEPA), and undermine the public's legal rights to meaningfully participate in decisions affecting our public lands.

The Senate bill fails to ensure any increased protections for homes at risk of wildfire or funding for work on local, state or tribal lands to use home protection methods proven by the Forest Service Fire Research Lab. Furthermore, the bill is not consistent with the Western Governors Association's Ten-Year Strategy for reducing wildland fire risks. Communities need and deserve real protection, which requires fuel reduction focused close to homes and communities.

The Senate bill would weaken the NEPA requirement that agencies consider a full range of alternatives to agency proposals with environmental impacts, such as logging and road building, and would effectively nullify the alternatives requirement, which the courts have called the very "heart of NEPA." In addition, the bill would eliminate environmental review for a category of logging projects up to 1,000 acres in size, excluding all public review, comment and participation for these projects.

The Senate bill would interfere with how judges manage their courtrooms by ordering courts to lift preliminary injunctions and stays after 60 days, unless the court affirmatively renews them. Moreover, the bill could provide agencies a new tool to restrict citizen access to the courts by requiring all legal issues to be raised during the administrative review process. Moreover, it would replace the current appeals process with a new process that does not allow appeals of final agency decisions, making it more difficult for Americans to challenge damaging projects and have a meaningful say in public land management.

Finally, although the Senate bill attempts to safeguard our old growth forests, the language offers an open invitation to abuse, and the bill fails to protect roadless areas.

For these reasons, we urge you to oppose H.R. 1904. LCV's Political Advisory Committee will consider including votes on these issues in compiling LCV's 2003 Scorecard. If you need more information, please call Betsy

Loyless or Mary Minette in my office at (202) 785-8683.

Sincerely,

DEB CALLAHAN,  
*President.*

Mr. HARKIN. Madam President, I have another letter from the American Sportfishing Association, the American Fisheries Society, the Izaak Walton League of America, Orion: The Hunter's Institute, Trout Unlimited, Wildlife Forever, and the Wildlife Society. The letter is dated July 16, 2003. I will be clear to point out they did not say they were opposed to the bill, but they have serious concerns about some areas of the bill. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN SPORTFISHING ASSOCIATION, THE AMERICAN FISHERIES SOCIETY, THE IZAAK WALTON LEAGUE OF AMERICA, ORION: THE HUNTER'S INSTITUTE, TROUT UNLIMITED, WILDLIFE FOREVER, THE WILDLIFE SOCIETY,

July 16, 2003.

Hon. PETE V. DOMENICI,  
*Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC*

Hon. JEFF BINGAMAN,  
*Ranking Member, Energy and Natural Resources Committee, U.S. Senate, Washington, DC*

Hon. THAD COCHRAN,  
*Chairman, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC*

Hon. TOM HARKIN,  
*Ranking Member, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC*

DEAR SENATORS DOMENICI, BINGAMAN, COCHRAN, AND HARKIN: We write to express our concerns regarding restoring healthy forests on public land (Healthy Forest Restoration Act of 2003, HR 1904). While we support the expeditious treatment of hazardous fuels on public land, the rush to implement an aggressive hazardous fuel management program may preclude considerations for other resources, particularly fish and wildlife habitat conservation. We believe that hazardous fuel management decisions should be based on deliberative and science-based protocols. By setting forth an open and collaborative process for such decisions, broader participation will be achieved and better decisions made.

Treatment of hazardous fuels where significant threats exist to human health or safety should be of paramount importance to the Forest Service. These treatments may include thinning, brush removal, or use of prescribed fire. It is important to note, however, that the Forest Service has only recently begun using timber harvest as a tool to reduce hazardous fuel. The paucity of research and evaluation as to treatment efficacy is a cause for concern. Congressional direction to focus on the wildland urban interface will enable us to keep our communities safer, while we learn through experience what types of hazardous fuels reduction projects work best, those that do not, and why.

Careful planning, analysis, and field-testing of various hazardous fuels treatments would allow the agencies to build support for hazardous fuels reduction, make communities safer and forests healthier, and provide a more stable and predictable supply of wood fiber from the National Forests.

Given that an estimated 75 percent of Forest Service timber sales currently are classi-

fied as hazardous fuels reduction projects, we would hope that Congress keep the public and environmental analyses processes for these sales as open as possible to ensure that interested citizens, scientists, sportsmen, and state agencies have significant involvement in their planning and implementation.

We endorse the prohibition of constructing new permanent roads in conducting fuel management projects. It is equally important that Congress recognize the possible deleterious effects of temporary roads on fish, wildlife, and water resources, especially if they become permanent travel-ways for unauthorized or unregulated off-road vehicle travel.

We are concerned that under congressionally proposed and agency-offered fuel treatment authorities, private citizens, sportsmen, and biologists will no longer be provided a reasonable opportunity to comment on or appeal decisions concerning fuel management activities. The 10-Year Conservation Strategy for Reducing Wildland Fire Risks to Communities and the Environment, for example, prescribes vague public involvement procedures and requirements on the agencies at the state, regional and national levels.

Legislation should make clear the purpose of emergency hazardous fuels treatments is to enhance forest health through activities that reduce the risk of catastrophic fire, insect infestations and disease, invasive plants, enhance fish and wildlife habitat, and protect watersheds. We recommend that project proposals be developed through an interdisciplinary planning process. The sale of marketable forest and rangeland products should be allowed only when such sale is incidental to emergency treatments. Wood fiber derived from fuels treatments should be sold separately as a byproduct of the restoration activity.

Finally, we note that a recently released General Accounting Office (GAO) analysis found that three-fourths of the 762 Forest Service projects to diminish wildfire risk in the past two years proceeded without appeals, litigation, or other challenge. Hazardous fuels treatments, such as mechanical thinning or prescribed fire, proceeded on 3.8 million acres of National Forests. Projects that were appealed or challenged moved forward generally within the 90-day period prescribed by agency regulations.

The GAO analysis demonstrates what is most needed by federal fire legislation is funding and a clear assignment of agency priorities to protect human communities. We hope this is where you will focus your efforts as a first priority. Thank you for considering our views. If you have any questions, please contact Chris Wood of Trout Unlimited at (703) 284-9403. We are available to discuss our concerns and recommendations at your convenience.

Mr. HARKIN. Madam President, I have another letter from a number of individuals who basically represent firefighters, smokejumpers—12 individuals who have written urging opposition to H.R. 1904 which they say is misnamed the Healthy Forests Restoration Act and instead support S. 1453, the Forestry and Community Assistance Act. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR MEMBER OF CONGRESS: As current and former wildland firefighters, we urge you to oppose H.R. 1904, the misnamed "Healthy Forests Restoration Act," and instead, sup-

port S. 1453, the "Forestry and Community Assistance Act" as the best available legislative plan for the interconnected goals of improving the health, safety and working conditions of wildland firefighters, protecting communities, and restoring forests.

Protecting homes and structures is one of the most dangerous assignments for wildland firefighters. We are basically forced to make a stand between the often unstoppable force of wildfire burning under extreme conditions, and the immovable objects of homes and structures. Added to the dangers is the fact that the area adjacent to homes and communities often have the highest fire risks and fuel hazards. And yet we must still protect these homes.

In wildland areas, firefighters face a number of unacceptable safety risks and health hazards due to the legacy of past management, such as: 1) high hazardous fuel loads in logged and roaded areas from untreated or ineffectively treated logging slash; 2) flammable brush, moisture deprived vegetation, and invasive weeds that rapidly grow in the wake of logging and grazing; 3) densely-stocked young timber plantations that can cause wildfires to blow-up and burn severely even from low-intensity fires; 4) a maze of abandoned or neglected logging roads that pose hazardous driving conditions for firefighters, or provide access for human-caused wildfires.

These degraded forests health conditions resulting from past management activities on public lands are part and parcel of the degraded working conditions and elevated safety risks and health hazards affecting wildland firefighters. The interests of wildland firefighters in a safer, healthier working environment, the interests of homeowners and communities in protection from wildfires, and the interests of the public in the protection and restoration of forest ecosystems, can be one and the same. Unfortunately, H.R. 1904, is heading down the wrong path.

First, H.R. 1904 fails to target fuels treatments to the areas that need it most: the community protection zone and low-elevation dry forest types. The wildlands/urban interface zone has some of the highest fire risks and fuel hazards, yet is neglected by H.R. 1904 because the majority of rural communities are surrounded by private, State, or Tribal owned lands, not federal lands. Hazardous fuels treatments need to be prioritized and targeted in the front country community protection zone in dry forest ecosystems. Instead, H.R. 1904 would authorize logging projects in remote backcountry areas including roadless areas, high-elevation moist forests, and other areas where fires may be natural or beneficial for the ecosystem.

Second, H.R. 1904 fails to target treatments to the kinds of fuels that pose the highest hazards. Hazardous fuels treatments need to target the surface layers of dead needles and limbs, small-diameter understory trees and brush, densely-stocked young timber plantations, old untreated logging slash. These surface and ladder fuels pose the highest risk of ignition and rapid fire spread. Instead H.R. 1904 would authorize logging of commercially-valuable mature and old-growth overstory trees, which are naturally resistant to fires and help moderate fire behavior by shading the ground surface from the sun and wind. Some of the most hazardous sites for wildland firefighters are hot, dry, windy logged units full of slash.

Third, H.R. 1904 fails to allocate necessary funds to pay for hazardous fuels treatments. In general, hazardous fuel loads have little or no commercial value. It will require appropriated money from Congress to pay for treatment of these kinds of fuels. H.R. 1904

fails to allocate any funds for hazardous fuels treatments, essentially forcing forest managers to sell large-diameter trees in order to pay for reducing fuels.

Fourth, H.R. 1904 fails to foster agency-community collaboration and social consensus around fire and fuels management projects. The enormous task of protecting fire-prone communities and restoring fire-adapted ecosystems will require an unprecedented level of collaboration among land managers and the public they serve. It is a matter of common sense to begin this task where we have common ground: prioritize fuels treatments around communities. This way we can increase public and firefighter safety in suppressing unwanted wildfires, and increase the opportunities for safely implementing prescribed fires. Instead, H.R. 1904 is guaranteed to generate increased public controversy and conflict, as the voices of citizens in public land management decisions are diminished, and legal accountability is eroded or eliminated.

We don't want to have our ability to comment on or challenge projects taken away—firefighters are citizens, too! In fact, citizens who work as wildland firefighters have the most at stake when fuels projects are planned and implemented. We want to be a complete part of the projects that will reduce the fuel hazard around at-risk communities, from planning through implementation, monitoring, and protection.

We want our working conditions, health and safety improved, but not at the expense of degrading the forests that we are dedicated to protecting. We believe that it is only through genuine restoration of fire-adapted ecosystems that firefighter and public safety will be improved, but H.R. 1904 is about forest restoration in name only, and is a recipe for further ecosystem degradation and public conflict and controversy.

In contrast, S. 1453, expedites projects to be done around communities most at risk of wildfire, regardless of whether or not they are bordered by Federal lands, appropriates funding for hazardous fuels treatments and watershed restoration projects, protects old-growth and roadless areas and currently healthy forests from inappropriate logging, and protects existing environmental laws and full citizens rights to engage in decisions affecting our own public lands.

As wildland fire fighters, we believe the protection of forests, communities and our health and safety are interconnected. We support efforts to make the working environment for wildland firefighters safer. But this does not have to imperil the very forests we seek to protect. Nor should it imperil the democratic rights of citizens to participate in land management decisions. Most of all, Congress should not use the issue of firefighter safety as an excuse to sanction inappropriate or illegal logging projects to proceed under the guise of fuels reduction or forest restoration.

Sincerely,

Joseph Fox, 25 years wildland firefighting experience; positions: smokejumper, Interagency Hotshot (crewboss certified).

Patrick Withen, 24 years wildland firefighting experience; positions: smokejumper, Interagency Hotshot, helitack.

David Calahan, 23 years municipal firefighting experience; positions: engineer on wildland/urban interface zone fires.

Michael Beasley, 16 years wildland firefighting experience; positions: Interagency Hotshot, Fire Management Officer, Prescribed Fire Specialist.

Rich Fairbanks, 14 years wildland firefighting experience; positions: Interagency Hotshot (foreman and squad leader), Division Supervisor.

Erin Ely, 10 years wildland firefighting experience; positions: Interagency Hotshot

(crewboss certified), 20-person Type II fire crew, fire salvage timber sale planner.

Timothy Ingalsbee, 8 years wildland firefighting experience; positions: helitack, engine, 20 person Type II fire crew (squad boss), Interagency Hotshot resource advisor.

Mei Lin Lantz, 5 years wildland firefighting experience; positions: Interagency Hotshot (squad boss), helirappeller, engine crew, fire/fuels management planner.

Ric Bailey, 3 years wildland firefighting experience; positions: helitack, engine crew (foreman).

Shawnti Johnson, 3 years wildland firefighting experience; positions: Interagency Hotshot.

Nalita Kendall Baumbach, 2 years wildland firefighting experience; positions: initial attack engine crew.

Colby Whitenack, 2 years wildland firefighting experience; positions: Interagency Hotshot.

Mr. HARKIN. Lastly, the Forest Roads Working Group, which includes Wildlife Forever, Trout Unlimited, Wildlife Management Institute, Izaak Walton League of America, Outdoor Industry Association, the Wildlife Society, and International Paper, also wrote a letter dated October 28, 2003. It is not in total opposition, but it expresses their concerns about certain parts of the bill saying the "fire legislation should endorse the prohibition of new roads into inventoried roadless areas." I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST ROADS WORKING GROUP,  
October 28, 2003.

Hon. PETE V. DOMENICI,  
*Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

Hon. JEFF BINGAMAN,  
*Ranking Member, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

Hon. THAD COCHRAN,  
*Chairman, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.*

Hon. TOM HARKIN,  
*Ranking Member, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.*

DEAR SENATORS DOMENICI, BINGAMAN, COCHRAN, and HARKIN: We write to express our concerns regarding restoring healthy forests on public land (Healthy Forest Restoration Act of 2003, H.R. 1904). The Forest Roads Working Group was established to bring together a wide range of organizations with a strong interest in ensuring that roadless area protections are crafted and implemented in a workable and effective manner.

The FRWG supports the expeditious treatment of hazardous fuels on public lands. The need to implement an aggressive hazardous fuel management program should not, however, preclude considerations for other resources, particularly fish and wildlife habitat conservation, outdoor recreation opportunities, and the protection of inventoried roadless areas.

In light of scarce resources, treatment of hazardous fuels should be of paramount importance to the Forest Service where significant threats exist to human health or safety and adjacent private lands. Given that an estimated 75 percent of Forest Service timber sales currently are classified as hazardous fuels reduction projects, we hope that Congress will keep the public and environmental analyses processes for these sales as open as

possible to ensure that interested citizens, scientists, sportsmen, recreationists and state agencies have significant involvement in their planning and implementation.

Fire legislation should endorse the prohibition of new roads into inventoried roadless areas. Given the now \$10 billion maintenance and reconstruction backlog of existing Forest Service roads, it is important that Congress recognize the potentially deleterious effects of roads on fish, wildlife, and water resources, especially if they become travelways for unauthorized or unregulated off-road vehicle travel.

Thank you for considering our views. If you have any questions, please do not hesitate to contact me at 202/508-3400. We are available to discuss our concerns and recommendations at your convenience.

Sincerely,

J.T. BANKS  
(For James D. Range).

Mr. HARKIN. Madam President, these are the concerns that I and many others have with the legislation before us, and I hope those who have amendments will come to the floor and offer them. I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Idaho.

Mr. CRAIG. Mr. President, before the ranking member of the Agriculture Committee sits down, I would be more than happy to include the protection of all the old growth in the Federal forests of Iowa in this bill, if it existed. Or maybe we could put a prohibition against wildfires in Iowa on public lands in this bill. And that is something we could accomplish because those two issues—the old growth, which I am sure the State of Iowa wished it had, and wildfires, which I know they would not want—do not exist in Iowa because no Federal forest lands exist there.

In my State of Idaho, in the great State of Oregon, and in the Great Basin, West, as much as 60 and 70 percent of our lands within our State borders are public lands and are subject to this legislation. That is why I am on the Senate floor. That is why my colleague from Missouri is on the Senate floor. That is why my colleague from California is on the Senate floor because it is the heart and soul of our States. Be it our water quality or our wildlife habitat or our environment in general, our forested lands make up that dynamic symphony of lands of which our States are proud, and we want to protect them.

To suggest this bill does not is not a fact. Let me give a point the Senator from Iowa just made. He said you could log in 1,000-acre increments across the landscape. Not true. Nowhere in the bill does it exist. Let's go back to California today where fires are burning.

Let's go to Lake Arrowhead in the San Bernardino forest where there is a complex of dead and dying trees of about 400,000 acres. You could log 1,000 acres there, and then if you chose to do another 1,000 acres near it, you get into the cumulative effect beyond the categorical exclusion and you have to do a NEPA process. That is what this legislation says. That is what the Senator



from Iowa did not suggest. He cannot suggest something that does not exist. Yes, it is true you do 1,000-acre logging increments, but when you get to a cumulative effect beyond the categorical exclusion, NEPA takes over. Therefore, you do the full public process that he admires and I admire because we believe the public ought to have a right to participate, but not ad nauseam through lawsuit after lawsuit for the purpose of delaying activity on the ground when there is bug kill and fuel loading and the public is at risk and the resources are at risk. That is what this debate must be about.

He implied that you could road on forever because this bill does not prohibit roading. You can't road today unless you go through a full NEPA process. It is not to suggest if you prohibit roading here or you do not prohibit it, therefore, roading will exist. That is not true. It does not exist today in current law. So do not imply that it does. That is a false accusation, in my opinion.

There are a good many other areas we will debate at length, I am sure, as the amendments come up. I am going to step out of my State of Idaho, which I know best, and step into California for a moment because California is at issue and it is in play.

My colleague from Oregon, who his other colleague from Oregon said was brave in taking the stand he is taking, is a brave soul, but he is also a person who recognizes the balance of good management on our public lands that protects water quality and wildlife habitat. He is the one who argued staunchly that we protect old growth. I didn't think it was necessary, but I agreed with him.

He and I have worked together very closely on what we believe to be balanced public forest policies for a good number of years, but what is not in balance is a policy that allows forests to burn at will simply because we deny the right of limited management to reduce fuel loading, to stop bug kill, and to slow the dead and dying trees.

So let us go to San Bernardino National Forest in southern California where fires are raging as we speak. We know that forest, because of environmental interests and because of the increase of the public living in that forest, in the 1970s stopped any form of logging. In the mid 1970s, it stopped. That became an inactively managed forest.

About 2 years ago, it was recognized as a forest that was in critical condition. The fuel loading was so great, the bug kill was so great, that the intermittent State lands within the San Bernardino forests were declared a state of emergency by the Governor of California, but it is almost impossible to save them if they are surrounded by lands where nothing is going on, where the bug kill is great, and where a fire is clearly a situation that creates a high risk.

We have known, and I have said on this floor for over 2 years, that the San

Bernardino National Forest was the perfect firestorm waiting to happen, and yet we talked on and on in a formally inactive way not to do anything about it. It is now burning. That is a phenomenal tragedy that we could have done at least something about, but we chose inactive management on the San Bernardino nearly three decades ago.

Let me speak for a few moments about why and what is different in California today than 50 years ago. If one listens today to news commentators covering the fires in California, they will say that that area burned about 50 years ago, and it probably did. It is a Mediterranean-type climate. It is largely a scrub oak climate except when one gets up in the San Bernardinios where one begins to get conifers and it did probably burn. Maybe it has burned every 50 or 60 years for the last thousands of years, but what was different today than 50 years ago is that there are now people living in the canyons, in the valleys, and in the suburbs that did not exist 50 years ago in that area. So the landscape is dramatically different and the risk is substantially higher, but we have done little about it.

We have not insisted that there be firebreaks, that there be thinning, that there be a way to protect the urban/wildland interface. H.R. 1904 begins to address that, at least on the Federal forested lands. If those firebreaks had been present, if that scrub oak had been pulled back 100 or 200 yards from those homes, grass had been planted, foliage had been kept down, it would not have been 1,500 homes burned now; it would have been considerably fewer. We all know that. That is a fact.

The world of the forest has changed dramatically in the last 50 years. The Senator from Iowa is right. Wherever there was a piece of private property within a Federal forested area, a home was built. Why? Because it is a very desirable place to live. We all love to live within the forested landscapes of our country, but if we do not treat them properly, it is like living inside a kindling box. It is like living near a fire that is ready to burn. All one has to do is drop a match, because the fuel loading that has gone on in these forested landscapes over the last 30 years is dramatic. Why? Because we put fire out. We got awfully good at eliminating fire and we did not replace the natural ecosystem's activities of fire with man-made activity. It is quite simple.

Along came the environmental movement in the 1960s. Along came the National Environmental Policy Act and the National Forest Act in the mid-1970s, and we began progressively to slow our activities on the public lands that were offsetting nature's activities in some instances and the fuel load began to build.

In the mid 1980s, a group of forest scientists from all over the United States met in Sun Valley, ID, to explore the health of our national forests. They

concluded that our forests in the Great Basin West were sick, dead, and dying, and that if we did not develop some form of activity to emulate fire, to thin and clean, we would someday in the near future begin to experience dramatic wildfires that would change the character of the landscape of the West. They were right. We did not listen. We could not listen. Why? Because there was a louder voice out there saying: Do nothing, do nothing, stay away; the only way to treat the public lands is to withdraw man from the lands, unless he or she tramples lightly upon them.

We did just that, and all of our policies have driven us in that direction. During the Clinton years, we reduced logging on public lands by nearly 80 percent. We did not change any laws, just reused the regulations, headed in another direction with a different philosophy.

Aside from that, there is another interesting statistic. Instead of the average of 1½ million to 2 million acres a year in wildfires on our forested public land, we began to see 3, then 3½, then 4, then 5, then 6, and last year 7 million acres, and that graph is going straight up as more of these lands burn because the fuel load that builds on them is so great that all of our forested public lands have become like a kindling box, ready to burn with the touch of a match.

It started in California last Saturday. It could have been manmade in this instance—it probably was—and, of course, we know the end result. It is not over yet. It has destroyed millions of acres of property and human life.

Now, this is dramatic. Guess what is about to start in California. The Senator from California is in the Chamber and she can tell us better than anybody else. But when the Santa Ana winds quit, when those great air patterns that sweep down out of the West shift and change the cycling of the wind and it reverses the sweep down off the mountains, it starts coming in off the ocean, and rains begin. This 500,000 acres of now denuded land, with no vegetation on it, will be subject to the winter rains.

What we are going to be hearing, almost as dramatic as the fires were, will be the mud slides and the erosion and the land movements that are going to occur in California simply within the next month or two or three. Can we not understand that? Cannot environmental organizations understand that there has to be a little bit of a balance, that somehow there is a way to ebb and flow, for us to exist, to protect our environment and at the same time balance it in a way that does not in the end destroy it?

In the year 2000, in Idaho, we lost 1 million acres to wildfire. That winter and the next spring, great slides of mud, rock, and debris flowed down out of the canyons and some of them into the beautiful pristine Salmon River that is a great fish habitat, a great

salmon habitat. In some instances, it probably damaged it. In one instance, there was a great alluvial flow of debris out into the river that was not swept away, and this last year when the waters hit it, the water diverted across the river and knocked out a highway and knocked out a road and put more silt into the river, all a product of the fire of the year 2000.

So fires have lots of consequences. We ought to try to manage our forests in a way that somehow diminishes the overall ability of those forests to burn, to protect our wildlife habitat, our water quality, our scenic beauty, and our recreational opportunities. That, in part, is what this bill is about. This is no major dramatic step forward. This is no assault on the environment. This is a positive but relatively small step in the areas we have so designated to suggest we adjust the appeals process ever so slightly, that we adjust the NEPA process ever so slightly, that we establish funding priorities in the wildland/urban interface, that we recognize and protect old-growth, and that we create a judicial review process that is streamlined so those who would chose no action cannot lock up reasonable, responsible action in the courts of our country.

That is what H.R. 1904 is all about. My colleague from Oregon is still on the floor. He, I, and a good many others, my colleague from Idaho, MIKE CRAPO, who chairs the forestry subcommittee in Agriculture—I chair the subcommittee in Energy and Natural Resources, the Senator from Oregon is the ranking member of that forestry subcommittee—have spent years and years on this issue, try to find a balance, working with environmental groups—outreach.

Let me thank the Senator from California, who is on the floor, who has demonstrated phenomenal leadership in this area. She has taken the time to understand the ecosystems and the health of the Sierras and she knows some form of limited action has to occur to save this beautiful landscape. That is what this legislation is all about. Yet some would paint it as dramatic and sweeping and destructive. It is simply not that at all. It is a small step forward in our effort to bring reasonable balance and management only in those areas designated as fire prone, as loaded with fuel, and the urban/wildland interface dominantly, and in sick and dying areas where the bugs have ravaged it and it is simply standing there dead, waiting for Mother Nature to take her course.

That is what H.R. 1904 is all about. Don't let anyone paint this in any other dramatic fashion or form, for if they were to do so, it would simply be untrue.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Idaho for his comments and for his support. I have

worked with him on this issue now for a long, long time.

As you know, California has great and challenging forests. As I delved into the issue and became more and more involved and traveled over forests on helicopters and walked through forests, I realized how much they had changed from the time I was a child in California.

I also thank the bipartisan group of Senators who have tirelessly negotiated this legislation, particularly the Senator from Oregon, RON WYDEN. He and I, on our side, have worked with a group of Republicans, knowing that both of us face States that are deeply challenged by forest fire. The need to develop a piece of legislation was crystal clear to both of us.

This is very difficult, I think, for both of us because the prevailing environmental view has always been not to touch our forests, and that is what fire suppression was all about. Senator WYDEN has been stalwart. It has been a great pleasure for me to work with him and his staff. I know my staff has also very much appreciated the collegiality and also the exchange of ideas. I thank him very much.

Also, Senators BAUCUS, CRAIG, CRAPO, COCHRAN, DOMENICI, KYL, LINCOLN, and MCCAIN—we were all partners in forging this compromise consensus bill.

With what is happening in California, I don't think I need to tell anybody that there has been an alarming increase in catastrophic wildfires that have raged through our forests and neighboring communities all across this great land, because nearly 27 million acres have burned nationally in the past 5 years alone, and 2.1 million of those acres are in California. There are 57 million acres of Federal land at the highest risk of catastrophic fire, including 8.5 million in my State alone.

People in California don't realize that much of our forest is in what is called the highest risk of catastrophic fire—for many, many different reasons. But that is where they are today. This is far from the natural condition of our forests. It is because this century-old policy of suppressing ground fires has allowed so much flammable brush to accumulate so dangerously in many of our forests, especially in dry areas at low to moderate elevations.

This legislation is not a logging bill, as some would typify it—I think falsely. This legislation would allow the brush to be cleaned out and it would also provide the first statutory protection for old-growth stands and large trees ever in the history of this Nation. I have heard people fault it, saying it is not this and it is not that—but it is, and no one has submitted legislation prior to our doing so in this particular area.

I want to be very clear. This is pro-environment legislation and it seeks to reverse some of the damage we have done to our forests and restore their healthy condition.

Pictures show the story, I think more powerfully than words. Like the old adage, a photo is worth a thousand words. That is really true. Let me show you this first picture. This picture goes back to 1909, and it reminds me a little bit of the conditions of the Sierras when I used to ride through them as a child. You didn't have to go on trails; you used to ride through the forest.

This is a picture of Grandview Point at Grand Canyon National Park in Arizona in 1909. You see the buggy and horses, and you see the open nature of the forest. You don't see much ground fuel. You don't see brush.

Let me show you the next photo. It shows the forest closing in, due to fire suppression. From 1909, in the top picture, you will see it open. This is all the same identical forest. You will see the openness all throughout this forest as far back as you can see. Then you will see the next one, 1942. Look at these little juniors, look at them popping up all over the forest. Then you will see in the last picture in 1992, following a fire.

This is the problem increasingly with these forests. This picture is from the Pearson Natural Area in the Coconino National Forest in Arizona.

Now, look at another picture. This is the crowded, unthinned area, Ponderosa Pine in California. You will see one of these problems. This picture is not following a forest fire. This is the natural condition of this forest. It is just awaiting a catastrophic fire.

Now, let me show you where fire suppression doesn't just exist in pines. I would like to show you a photo of some of California's most magnificent trees. This is the Mariposa Grove of giant sequoias in the southern Sierra Mountains. It is interesting to look at it. This is a man right here. This will show you how big those giant sequoias are. This was taken in 1890. Look at the clear space around those sequoias.

Now go to 1970. This is the same tree and look at what has happened. This is a catastrophic fire waiting to happen.

What will happen if there were fire back here, let's say, involving these two trees? It would not necessarily be catastrophic, because it would not burn hot enough on the fuel to take out the canopy. The sequoias are basically fire resistant and it would resist it. Fires today run the risk—because of the underbrush, because of the nonnative species, and because of the fuel ladder—of really taking out the canopy of old majestic and great trees.

We had a fire in the Sequoias, and we were just lucky that where the fire took place, it didn't reach these trees.

I would like to show you a picture of a fire in a Ponderosa pine forest that has been altered by decades of fire suppression. Look how this fire is burning. It is not confined to the ground. It is rising up into the trees and doing substantial damage.

Look at this photo of fire in a stand where the brush and smaller trees have been cleared out. Note that the fire,

unlike this fire, is confined to the ground.

That is what we are trying to achieve in this bill so that when a fire does occur it is confined to the ground and does not do damage to old-growth trees, to other trees in the area, and to property and life.

Finally, this is a picture showing how thinning can protect the forests. This is the 2000 Clear Creek Fire in the State of Idaho. The upper area in the photo was unmanaged, and it burned severely. You can see that right through here where the fire burned. Now you can see where the fire stopped. The lower area survived the fire and remained green and healthy because of one reason: It had been thinned.

This is elegant testimony to what happens when it isn't managed. Where fuel is not removed, it burns fiercely. It stops where it is managed and there are fuel breaks, and the forest is cleared of fuel.

I want to emphasize that not all of our forests have been affected by fire suppression. Many of our forests—particularly those in the wetter areas and higher mountain elevations—have changed little, if at all, from fire suppression. Fires in these forests occur only rarely. In some cases, hundreds of years can pass between fires. But fire suppression has changed these forests little.

We can largely leave them alone under the legislation. The only exception is forest areas near communities where we want to reduce the hazardous fuel to ensure public safety.

This is how our amendment would work. The bipartisan amendment directly addresses these threats to our forest health and our communities.

We established an expedited hazardous fuels reduction program for 20 million acres at the highest risk of catastrophic fire.

Some opponents of this bill are saying everything is up for this project—wrong.

This project is confined to 20 million acres of the highest risk of catastrophic fire among the 54 million acres which the Forest Service has identified at highest risk of catastrophic fire.

It would authorize \$760 million annually for the removal of fuel. That is a \$340 million increase over current funding.

The House bill has no money for title I to do this in that bill. It leaves 50 percent of the funds to be used for fuel reduction near communities.

This is a compromise that Senator WYDEN and I made to be able to provide incentives for others who may not have as many populated areas as some of us do to also have an opportunity to have fires thinned near urban watersheds, municipal watersheds, areas of infestation, and other critical areas that are in need of thinning to prevent catastrophic fire. And the remainder of funding is for municipal watersheds or

endangered species habitat or areas that have suffered just as I have said.

The legislation also requires that large fire-resistant old-growth trees be protected from logging immediately. Most people do not know that. But there is immediate protection for large fire-resistant old-growth trees. It mandates that forest plans that are more than 10 years old and most in need of updating must be updated with old growth protection consistent with the national standard within 2 to 3 years. Within that 20 million acres there is a real effort to say that old forest plans must be brought to the fore and dealt with quickly within 2 or 3 years.

While forest-specific old growth is being developed, large and fire-resilient trees would be immediately protected in the new project authorized by this legislation.

The bill prevents logging of the largest most fire-resistant trees in the guise of fuel reduction. Where old-growth forests have not been altered by fire suppression, existing old-growth conditions must be maintained. And in other old-growth stands where brush and other highly flammable fuels have accumulated through this century-old policy of suppressing ground fires, brush will be cleared out to protect the stands from catastrophic fire.

And local forest managers will write specific prescriptions for their forests. All of these prescriptions will be consistent with the more general national old-growth protection standards in the bill.

Additionally, the agreement improves and shortens the administrative review process.

I want to talk about this. There has been a lot of things said. A lot of things were just plain wrong. We have been trying to correct them wherever we can. Where we tried to shorten the process, we tried to make it more collaborative and less confrontational.

It is critical that the Forest Service be able to spend scarce dollars as it is doing vital work on the ground rather than being mired in endless paperwork.

The legislation we have submitted fully preserves multiple opportunities for meaningful public involvement. People can attend a public meeting on every single project. They can submit comments during both the preparation of the environmental impact statement and during the administrative review process. I guarantee that the public will have a meaningful say in these projects.

The legislation changes the environmental review process in this way. It does this so that the Forest Service still considers the effect of the proposed project. But it does it in a way so that the Forest Service can focus its analysis on the project proposal.

One reasonable alternative is required—I want to explain this—that meets the project goals and the alternative of not doing the project, instead of the five to nine alternatives now required.

We are not talking about a freeway or a highway being located where you might want to look at five to nine different alternatives. We are talking about one specific project that has been designated for hazardous fuels reduction and how you carry out that hazardous fuel reduction.

There might be debate on whether it should be mechanical thinning, or burning, or a combination of the two. There might be a debate on exactly which trees people want to remain inviolate. All of that is possible. But the requirement, in addition to the alternative of doing nothing, is reduce one alternative—one sound alternative—that can be considered.

This legislation replaces the current Forest Service administrative appeal with an administration review process that will occur after the Forest Service finishes its environmental review of the project but before it reaches its decision.

This new approach is similar to the process adopted by the Clinton administration in 2000 for review of forest lands and amendments to those plans. The process will be speedier and less confrontational than the current administrative appeal process and have more information available to those who want to know more about the project.

Perhaps the most controversial area is the area of judicial review. I will turn to that. I emphasize that cases will be heard more quickly under the legislation, abuses of the process will be checked, but nothing alters the citizen's opportunity for a fair and thorough court review. Parties can sue in Federal court only on issues raised in the environmental review process. We believe this is a commonsense provision that allows agencies the opportunity to correct their own mistakes before everything gets litigated. Lawsuits must be filed in the same jurisdiction as the proposed project. This was in-house language. This has been supported. It is a good idea. We go to the Federal court in the area where the hazardous fuels project is proposed, not to a Federal court in New York City or somewhere else.

Courts are encouraged to resolve the case as soon as possible. This is not mandatory language, it is suggested language. It means that any judge reading the bill will understand how seriously we take this. We urge them to conclude their deliberations expeditiously.

A preliminary injunction would be limited to 60 days, not going on and on and on. An individual who gets a preliminary injunction can come back before the court and make an argument as to why the injunction should be continued, and the judge has the ability and the prerogative to continue that injunction if he or she sees fit.

This provision, we believe, sends a signal to the courts not to delay important brush-clearing projects indefinitely unless there is a good reason to do so.

Then there is what is called balance-of-harm language in the bill that says the court must weigh the environmental benefit of doing a given project against its environmental risk as it reviews the case.

I deeply believe this amendment is balanced, that it is a significant improvement from the House-passed bill. I cannot support the House-passed bill. Senator WYDEN cannot support the House-passed bill. The Democrats who are on this bill cannot support and will not support the House-passed bill. Ergo, in this Chamber, the House-passed bill will not have the 60 votes required to move it along.

There are many ways in which this amendment improves on the House-passed bill. I know Senator WYDEN went into that in great detail. I will mention three of them.

First, this bill is focused on the highest priority language where we need to undertake brush-clearing projects to restore forest health. As I said, it is limited to 20 million of the 54 million acres at highest risk of catastrophic fire. These lands include the wildland/urban interface as defined by the communities needing protection, lands where fires would significantly threaten municipal water supply, lands significantly harmed by insect, disease, or wind throw and endangered species habitat.

Second, we have protected both old-growth stands and large trees across the landscape. The projects expedited by this act, I believe, will truly restore forest health.

Finally, the Senate agreement removed a provision of the House-passed bill that could have threatened the fair and impartial judicial review of Forest Service actions. This provision would have tilted the playing field in forestry litigation by requiring a court to defer to the Federal agency's views in deciding whether to issue an injunction.

So for these three reasons alone, I believe our bipartisan amendment to title I significantly improves the bill which I otherwise could not support.

Now, many people have said this bill would not do anything in California. That is just not right. I will speak to that for a minute because we have terrible fires burning, 10 huge fires, 3 huge major fires: Every day, burning homes; every day, the victim of excess vegetation and hazardous fuel that has built up over many years and has not been removed.

The fires in southern California are burning in two basic vegetation types: chaparral and the pine forests in the San Bernardino Mountains. The exclusion to that is the fire burning up north, east of Redding. In both of these vegetation types, treatments of fuels will reduce the risk.

The first area where the southern California fires are burning is the pine forests of the San Bernardino Mountains. I want you to take a look at these forests and look at the homes in the middle of this forest: House, house,

house, house, house, house, house, house, house, house, house, house, house.

Do you notice the yellow forest? That is all dead and dying and infested bark beetle forest. There are 44,000 homes located in the Big Bear/Arrowhead area where this fire is now on two sides, moving. Look at these homes. Look at the dead and dying trees. Does anyone believe they have a chance of surviving if this forest is not cleaned?

We have tried in appropriations bills to get more money—and we have been able to get some money in this year and last year for more removal of bark beetle-infested forests—but clearly this is an exact area of urban interface that is in catastrophic, highest risk of fire. No one could tell me that if a hazardous fuels mitigation project had been carried out around this area, these homes and tens of thousands like them would not have been saved in this fire.

Everyone, look at this. That is what this bill means. If you are going to vote against this bill, just know that. This is correct and elegant testimony. About 474,000 acres in this forest. The San Bernardino/San Jacinto, often both private and public lands, were experiencing severe tree loss ranging from 10 percent of all the trees in a given area to 100 percent. That has been known for quite some time. It has had years of drought. It has bark beetles. It has root disease. It has dwarf mistletoe. They have all reached epidemic proportions. The cost assessment by the County Assessor's Office of these homes and those surrounding them is \$8 billion.

A century ago, this forest was fairly open, with mostly larger trees. Experts estimate there were likely 40 to 50 trees per acre back then. The difference today is staggering. The Forest Service estimates there are now 500 trees per acre in much of the San Bernardino mountains—40 trees before fire suppression; 500 trees today.

That is also eloquent testimony to what happens with the fuel ladders that are generated by the overcrowded forests. This is more than 10 times the density of trees that existed a century ago. It is startling, it is dramatic, and it is a huge difference. So this is what we have created with a century of "do not cut a tree" fire suppression: extremely dense, unhealthy forests.

The Senate agreement would get projects moving quickly to thin these forests and restore them to health. The San Bernardino Forest would be among the highest priority areas to receive hazardous fuel treatments under the legislation. All the insect-infested areas would fall within the priority areas for treatment.

With the expedited administrative review process, we could treat these acres more quickly. Environmental analysis would focus on the work that needs to be done, not multiple theoretical alternatives. We know we need to thin these forests. We do not need to study 6 or 12 different ways to do it.

The expedited administrative review process would also help us past the confrontational delays caused in the current appeals process, and the additional funding the bill authorizes would also help.

Finally, we have spoken to Republican colleagues who have agreed to add a \$50 million authorization for emergency grants to States and localities for dealing with situations exactly like those in the San Bernardino Mountains today. So there is money to help communities do their wildfire plans to help them move to develop areas they believe need this thinning, and these grants help additionally.

Communities could clear evacuation routes from mountain areas, like the Lake Arrowhead region, to ensure that people have a chance to escape in the event of a catastrophic fire. One family trying to escape with two children in their car was burned to death because the car could not move faster than the fire.

Brush would be cleared around shelter-in-place locations like schools in case people do not have the opportunity to escape in time. Communities would obtain funding for evacuation drills and other advanced planning. I am very grateful the other side agreed to add this \$50 million segment.

The Senate bill will also help prevent chaparral fires. Some have said: Oh, no, it won't. Here is Scripps Ranch. This is a large subdivision outside San Diego. You see the fire—miles of fire line approaching the ranch.

The legislation authorizes significantly more money for hazardous fuel reduction efforts. We authorize a total of \$760 million. That is \$340 million above current funding. Again, the House bill has no dollars for this kind of public land mitigation. Our bill does.

Moreover, there is an understanding that the bill's sponsors will work to continue to increase funding substantially. Let there be no misunderstanding on this point, these funds are available to be used in brush areas like chaparral as well as in forested areas.

Second, the legislation requires at least 50 percent of the funding goes to community protection. This is a significant improvement over current law which does not require any set amount of hazardous fuel reduction go for community protection.

Perhaps most importantly, the legislation calls for communities to plan their own defense through community wildlife protection plans. That is a problem. People who live in dry Southern California areas want the trees, want the bushes, want the fuels on the ground. Historically they have resisted putting together community fire protection plans. That is folly. They have to do it. In chaparral, it is important to get community support behind prescribed fires to clear out the brush. So far, as I said, many communities have been reluctant to support prescribed fires because of the perceived risks of these fires. But community wildfire

plans will give the community the ability to choose whether it wants the risks of prescribed fire—or some cutting or thinning—or the much greater risks of wildfire.

Community wildfire plans will play an important role in gaining popular support for a workable way to defend these dry communities.

Another key issue—I am just about through—in chaparral is reducing the risk of homes burning on private land. The community wildfire plans provided for in this bill will help in this area, too, because they are required to include recommendations to reduce homes igniting throughout the community.

We owe it to our communities to do the best we can to protect them from catastrophic fire. I wish—I truly do, from the bottom of my heart—the California wildfires would be quickly extinguished and controlled. We need to do everything we possibly can.

I might report the regional forester called this morning. We have been pushing the White House and the Defense Department to lend every piece of available equipment—C-130s, Sea Stallion helicopters with buckets, tankers—everything they have. For the first time, I got the report that they have everything they need now to fight these big fires. I am very grateful for that and express my gratitude.

Mr. WYDEN. Will the Senator yield?

Mrs. FEINSTEIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I will be very brief.

I have one question for the Senator from California, but first I want to thank her for the exceptional work she and her staff have done on this issue for over 4 years.

Mrs. FEINSTEIN. I thank the Senator.

Mr. WYDEN. I have chaired the subcommittee. I have been the ranking minority member. I do not think my knowledge on this subject compares to that of the knowledge of the Senator from California.

Mrs. FEINSTEIN. The Senator is very kind.

Mr. WYDEN. She has thrown herself into this, and we thank her for all her efforts. We all empathize with what your constituents are going through. The people of California, a year ago, helped my constituents. We are trying to help yours. We thank you for it.

Mrs. FEINSTEIN. May I just say, thank you for the help that has come from Oregon. It is a long way away. But we are very grateful. New Mexico is sending help. Nevada—the Senator from Nevada is on the floor—sent help. Arizona has sent help. We are very grateful for that.

Thank you.

Mr. WYDEN. I thank my colleague.

One very brief question. I have seen from the beginning of the debate that probably the most contentious issue coming up is this question of making

sure the public is still involved in the process, the whole question of what is called NEPA, the National Environmental Policy Act.

The Senator is so correct in saying we have made it clear that the Senate bill is not something we are going to allow to be unraveled. But I think one of the reasons for it is because the Senate bill differs very dramatically with what the other body is talking about with respect to keeping the public in the process.

The other body, in effect, takes the public out of the process by predetermining these NEPA alternatives. What we have said in our compromise would be to say the public can actually offer an alternative. The public has a right to go into this process, known as scoping, and actually come to the table and offer an alternative.

The Senator has made the point that not one current opportunity for public comment would be lost under this compromise.

I would be interested in the Senator's analysis of how the public stays involved, because I think this is probably the most contentious question we may be faced with as we try to wrap up this bill, hopefully today.

Mrs. FEINSTEIN. The Senator is correct, through the Chair, if I may. We have discussed this and both of us wanted to protect the collaborative process. We wanted to protect the ability of individuals to go to meetings, to state their issues, to have those issues considered.

The only change I see in this is twofold. The first is that they will have the environmental review to look at, which is important in understanding what you differ with in the environmental review and then being able to make the case.

Secondly, the number of alternatives is reduced from five to nine to one. There is a good reason for that. As I pointed out earlier, if we were talking about a network of highways or something like that, you may want five to nine alternatives to be considered. We are talking about an area which has been designated in the highest risk of catastrophic fire. Therefore, the alternative would be one. For example, do you believe there is too much thinning? Do you believe there is too much burning? Would you do mechanical in what proportion to burning to thin this area out? There would be the ability to come in with one precise alternative.

Of course, the other alternative that some might argue for is to do nothing. They would have that ability as well.

Mr. WYDEN. I thank my colleague and again tell her how much I have appreciated a chance to be her partner.

Mrs. FEINSTEIN. You have been a great ranking member and I have enjoyed every minute.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield to Senator REID.

Mr. REID. Madam President, I have listened to the statements here today. They are all very good. People have worked hard on their statements. But I want to simply say this: We have a bill to complete, and we want everyone who has any interest in it to come and give their statements. When that time has come, we will start the amendment process.

We have worked on this bill now 3 hours, and the only amendment offered is the one by the chairman of the committee, Senator COCHRAN. What I wanted to do is ask unanimous consent—he already has the floor, the chairman of the Energy and Natural Resources Committee—that following the statement of Senator DOMENICI, the ranking member of the committee, Senator BINGAMAN, would be recognized to give a statement. It is my understanding the Senator from Alaska wishes to give a statement. Following Senator BINGAMAN, the Senator from Alaska be recognized to give a statement on the bill.

The PRESIDING OFFICER. Is the Senator seeking consent for that sequence?

Mr. REID. I am.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank the Senate for allowing a lengthy debate this morning about a very serious issue. I am looking across the Senate to the distinguished junior Senator from Alaska, a new Member of the Senate. She has behind her a very big picture. She will explain it in more detail. But might I ask, that is a picture of a totally infested forest in your State; correct?

Ms. MURKOWSKI. That is correct.

Mr. DOMENICI. Would you mind answering a couple of questions? We have been hearing about fires in California moving in the direction now, if they have not already, of an area that is highly infested.

Last night on television we heard various announcers talk about it. They described it from the field, for those who were there. They said: This forest is like Christmas trees many months after Christmas, just standing there like dried pieces of wood. And they said that we know what happens to those after Christmas when you put a match to them.

That is what we are talking about in this forest you have there.

Ms. MURKOWSKI. That is correct. It is not just a small patch we are talking about. We have over 5 million acres of infested and dead timber standing there just waiting, as the Senator indicated, to crumble and act as fuel for any fire. It is as the Senator described. It is like that Christmas tree. There is absolutely no life to it with the needles just crumbling in your hands. It is that dry.

Mr. DOMENICI. Before Senator FEINSTEIN leaves on her way out, I will not ask you anything; I am just going to speak about you.

First, I thank you for your leadership in this regard. Some people think that it is only New Mexico and Utah and Wyoming that have forest fire problems and that have forests that are clogged to the gills because we have not maintained and cleaned them. Some think the only infested forests are in Alaska.

As I understand it, you have all of those and probably in larger quantities than most of us combined. I say, for those of us who have been trying desperately to get a bill that treated these situations in a way that could be solved, it was truly a Godsend that we got some powerful and thinking Democrats who decided to join us. You are one of them.

Senator WYDEN, I thank you. There are more than the two of you. But every time we needed a voice, you were there. I don't know what they said about you at home. I don't know what those people who don't want to do anything said about you. But I assumed they didn't say all nice things because every time you try to modify the law, there is somebody back home who runs an ad that you are trying to log all the forests in the State or that you don't care about preserving the beauty of your State, that you have just turned yours over to the logging industry.

I see the Senator nodding. You must have had some of that already. And Senator WYDEN, you must have, although you have already felt the wrath of not being able to log anything in your State, and you have seen what happened to thousands of workers.

I just wanted to, as part of my opening remarks, thank you.

We will also have to take up, as part of the Iraq bill, the Domenici-Feinstein bill on proper notice and opening up all the decisions that are going to be made over there to the public and in a regular order manner. We will do that later in the day and maybe have another victory.

Mrs. FEINSTEIN. Through the Chair, if I may, I would like to thank you, Senator. I appreciate the chairmanship of this committee, your working with Senator WYDEN and I. I am delighted to hear what you have said about the emergency supplemental and getting the report language back in. Thank you very much.

Mr. DOMENICI. We have an array of Senators, not just Republicans—not the few who have been fighting for years about this issue of the failure to maintain our forests—we have a lot of Senators who have come around to our way of thinking, Democrat and Republican. It almost is unbelievable to see that forest in Alaska, which is no longer a forest other than by name, to see what is happening in California as brush fires move quickly toward an entire forest that is dried, dead trees, and then to ask the question: Why is that so? Wouldn't it be rational that we cut them down? Wouldn't it be rational that rather than leave them there as natural incendiaries, ready to literally

blow up, just poof, and they go right up in the sky as these kind of trees burn, wouldn't it be logical to do something about it?

Well, the truth is, we have not been able to do anything about it for one of the most ridiculous reasons anybody could have in mind, but it has worked until today. That is, anything you try to do is logging forests. Anything you try to do is turning the forests over to the loggers. Would you believe year after year after year that has prevailed? I don't know what we could have done when we passed legislation, when we begged these same groups, let's write in something about logging, let's talk about the size of the trees, let's do anything reasonable, as we talked about what has happened to American forests.

I don't know if the distinguished occupant of the chair knows what forests looked like 20 years ago in our public forests, and what they look like today; but I can tell you they don't look like the same forests. They used to be cleaned: there used to be spacing; it used to be that the trees—I nicknamed what we were trying to do one time on the Senate floor—what we are trying to do is make the forests “happy” again. I meant that they could see the sun, and they would probably smile, instead of being clogged up together where they grow straight up. But nobody dare touch that forest and clean it up and make it a forest like it used to be because they will be sued and things will be delayed, a judge will take over, and the judge will say: Every “t” has not been crossed, every “i” has not been dotted. You cannot do it.

One day in 1998, after we had our share of fires, after a huge fire in my State—I think it was the second most serious fire to the California fires in terms of burning down homes—450 houses at Los Alamos. Incidentally, if you are looking at what things might cost, that was done by the Federal Government that messed up and burned it by mistake and we had to pay. That one cost over a half billion dollars to the town and the people for what they lost, including houses and streets that were broken and torn up. I would not even want to guess what the California fire will cost. I hope that the houses are insured.

Nonetheless, if you add it all up, it is costs. I don't see how it is going to be less than \$5 billion or \$6 billion, based on the little bit I know that I am sharing with you. The truth is that there is no reason under the Sun to delay moving ahead with that forest in Alaska, and moving ahead quickly, get it cut down; and whatever utility there is in the trees, use it. If there is none, have planned burns so you can give way to some growth that will be healthy again. That is why we have called this now the Healthy Forests Act.

Might I quickly say that while we weren't able to expedite everything the way some of us wanted, although ev-

everything is expedited in this bill, at least cleaning up forests such as the one in Alaska, huge acres of infested trees, in this bill that will move quickly in the future. It can be delayed and go to court once. But the overall thrust of the bill is that it won't be delayed for years as in the past. So the distinguished Senator from Alaska hopes to see some of that removed soon, during her first elected term in the Senate.

Now, I began by thanking Senator COCHRAN and his staff for moving ahead with this legislation. It was determined that it was their jurisdiction because of the way it was written, not the jurisdiction of my committee, the Energy and Natural Resources Committee. They did a great job. I am not going to bother the Senate with a lot of statistics about the health of our national forests, but there are some facts of importance.

Our Federal agencies tell us that 190 million acres are at risk to catastrophic fires or attack from insects and disease—190 million acres. This is an area equal to the size of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and most of Maryland. It means that much land covered by forests is no longer real forest, it is insect-riddled forest like that in the photo of Alaska, most of which should be removed so good trees can grow, and so we can eliminate catastrophic fires that can occur quickly, simply, and easily and go through and scourge the area—worse than Attila the Hun—leaving nothing.

In the last 5 years, we have burned—including what we have burned this year—24 million acres; 24 million acres have been scorched. That is an area as large as Vermont, New Hampshire, and Connecticut. I am not here saying we will never have forest fires and we should never have them. What I am saying is they should not be occurring where improvements exist, homes exist, National Laboratories exist, where businesses exist because we already know we ought to clean around them so they will not burn.

As a matter of fact, the principal reason for the bill I introduced, which I said we called “happy forests,” was to get at this issue we called urban interface. We still have not done a great deal. In fact, I am just learning that of the \$250 million that we put in that bill back then, there is still over \$100 million in both the BLM and Forest Service that has not been spent on happy forests. So maybe when we get this bill finished, we can finally get an organized plan for funding that will see us making some headway. We have seen insects destroy the forests in a dozen Western States, severely impacting forests in Eastern States.

One such outbreak in southeastern California has destroyed 450,000 acres, half the national forest that it is located on, in an area almost as large as the State of Rhode Island.

Let me put the forest health disaster in context. During that same period,



the Forest Service has only thinned or harvested 1.4 million acres, which is slightly larger than Delaware. We have burned 17 times more rangeland in the last 5 years than we have attempted to manage—land that we know should be managed, cleaned up, unclogged, and we should get rid of the waste on the ground that is a fire trap. We have burned 17 times more than we have attempted to clean up and manage.

So this bill is going to improve forest health, if we can ever get it passed. I hope those who have delayed it in the Senate will let us get on with it. I have been amazed to hear the reason some have said—that they are holding this bill up because they could not understand it. Well, I don't know how all these Senators, from the ones I mentioned on the other side of the aisle to the ones on this side, could all say it is a meaningful bill, and then we can have one or two Senators, or their staffs, saying they are against it because they don't know what it means. Maybe they should ask or let us bring it up, and if they think it is not clear, offer an amendment.

I think it is clear, and I think it is a good bill. I don't think in some areas it goes far enough, but you have to do what you can. Now we have a great bipartisan coalition and we will have to work with the House, which wants to go more in the direction of expediting matters. But this is going to result in improving the health of our forests over time. It will result in a more public expedited process for moving hazardous fuels projects through the NEPA process. I didn't say "without" the NEPA process, as we are being accused of out in the hinterland. It is going to provide that that would be expedited. There is nothing in the NEPA law that says you cannot do that. It prioritizes the treatment of 20 million acres in the wildland/urban interface. I described that.

Twenty million acres are supposed to receive high-priority treatment to clean this stuff that is around urbaness, and make it less volatile from the standpoint of burning. When we had our Los Alamos fire, which I alluded to, it came perilously close to burning some very important laboratory buildings. Suffice it to say that most of them were saved because the laboratory had cleaned up 200 or 300 feet around each one and left no trees, so they had to jump all the way over that to get some buildings.

On the other hand, the fire got a few buildings that were not so important and where there had been no cleaning and burned them. We spent a lot of money replacing a few of the buildings.

This bill says 20 million of this wildland/urban interface, as well as outside the wildland/urban interface is at highest risk, and they are called that: high-risk areas.

This bill calls for court cases on hazardous fuels projects to be heard within the district in which they are located, encouraging the courts to deal with

these cases in a timely manner, and directs that all preliminary injunctions be reviewed every 60 days, with an opportunity for the parties to update the judges on the conditions about which courts should know.

Finally, the bill reminds the courts that when weighing the equities, they should balance the impacts to the ecosystem of the short- and long-term effects of undertaking a project against the short- and long-term effects of not undertaking a project. That is very important. It cannot be one-sided. There is always somebody who can say there is a bad side to it, but the judges now will have to look at and balance the short- and long-term effects of not doing the project with undertaking the project. They are going to find that a lot more than in the past, it will not be subject to the court holding them up.

What is the difference in the House bill and this bill?

First, we have restricted the use of this authority under this act to only the highest risk areas.

We have emphasized the importance of working within the wildland urban interface by requiring 50 percent of the funds nationally be spent within the wildland urban interface.

We have emphasized the importance of quickly dealing with insect and disease epidemics and the salvage of wind-thrown or ice-damaged timber due to their susceptibility to insects and disease.

We have increased the amount of up-front public input to project development and NEPA by adding a process for communities to develop a community fire protection plan to help inform the Federal land managers of a community's priorities and by requiring all projects to be developed through the collaborative process developed by the western Governors group.

We have added the authority for the agencies, in cooperation with State and local government, to treat community escape routes as part of the wildland urban interface. This is a major improvement over the House-passed bill.

Until the community fire protection plans are completed, we have laid out criteria for how far from the wildland urban interface the community protection projects may be undertaken. These criteria are flexible enough to take advantage of geographic features, such as ridge-tops, rivers, or roads, but restrictive enough to ensure projects undertaken in the wildland urban interface will really protect the community.

We clarified what Congress wants in terms of a new pre-decisional protest process by requiring the Secretary to establish such a process while ensuring the public will play a part in the development of the new appeals process.

Unlike the House version, we have limited the use of this new appeals process to just projects authorized by this act, rather than having it apply to all Forest Service activities.

We have, for the first time, included language designed to protect old

growth and fire resistant large trees. This protection is based on forest plans.

Where those forest plans are old, or outdated, we require the Secretary to complete a plan revision or amendment to address old growth and large fire resilient trees, while at the same time including enough flexibility to ensure work need to improve fire resiliency can be carried out.

We have narrowed the scope of changes under judicial review to just those projects undertaken under the authority of this act.

We have also included all of the judicial review provisions from the Wyden-Feinstein proposal, S. 1352.

Finally, we have authorized \$760 million annually for hazardous fuel reduction work, including the projects authorized under this act, which is more than double what is currently being requested.

I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). Under the previous order, the Senator from New Mexico, Mr. BINGAMAN, is to be recognized at this time.

Mr. BINGAMAN. I thank the Chair.

Madam President, even if we were not having the catastrophic fires we are seeing every day in southern California right now, the forest health issue is of vital importance to us in the West, and many of the speeches that have been given here underscore that.

I am glad the Senate is considering a forest health bill with the opportunity for us to offer amendments. I will not go through all of my statement because I know we want to get to those amendments. There has been a lot of time used already in discussing the bill in general terms. We need to get down to some of the specific amendments.

Let me make a few general statements about the bill because I do think it is good to at least give our perspective on the situation.

Some have tried to portray the issue as one of support for the concept of active management of our national forests on the one hand as opposed to simply allowing nature to take its course. Let me be clear that I do not agree with that portrayal of the debate taking place in the Congress. I have always viewed active forest management as not only a desirable policy but one that is absolutely necessary. In my opinion, support for active and responsible forest management does not equate with support necessarily for all the provisions in this substitute amendment that will be coming before us.

I want to be sure that whatever legislative language we pass provides meaningful new authority to Federal land managers, that it is focused on the communities that are most threatened by wildfire, and that it does not unduly restrict the public's ability to participate in the oversight of public lands management.

In addition, I believe commercial timber operations are an important

part of our national forest policy. It is important that legislation dealing with forest health not be a pretext for accomplishing that purpose as well.

I wish to discuss some of the concerns with the forest health issue based on the initial reading I have done of the amendment we are going to be debating and amending.

Let me begin by stating the obvious. That is, the health of our Nation's forests is absolutely critical at this point due to generations of misguided forest management policies. Many forests are overcrowded with unhealthy buildup of underbrush and tree overcrowding. I think all the experts in this field recognize that. We see evidence of that not only with the California fires, but we see evidence of it throughout the country.

The effect of these large wildfires can be catastrophic, as we all can see. We have, as Senator DOMENICI indicated, seen some of this catastrophe in my home State of New Mexico. He made reference to the Cerro Grande fire at Los Alamos where a substantial number of homes were destroyed and a great amount of the forest was also destroyed.

Clearly, we need to take proactive steps to improve forest health. In my view, the proposed forest health amendment does some things right but, in some respects, I think it misses that opportunity. It does not provide any meaningful new authority for funding to help Federal land managers, but it does add new restrictions on the public's ability to participate and restrictions on the Federal courts' ability to review what is done.

There is a basic disagreement among some of us in Congress and among those who are most ardently supporting this amendment, and that is a disagreement about what is the most significant public policy issue we are faced with in trying to come to grips with these catastrophic fires.

The amendment we are going to be debating seems to be based on the premise that the underlying and essential problem that needs fixing is that we have too much public participation in the decisionmaking process, in management decisions, administrative appeals, and lawsuits.

One of the speakers earlier today talked about a litigation paralysis, saying that is the problem, that is why these forests are burning up. That is what we need to change most quickly. I say this because the major new authorities provided in the amendment are ones that limit appeals of agency decisions, limit judicial review, and require courts to follow new standards. I don't really think the facts support this assumption that litigation is the major and most significant problem we face.

I recently asked the General Accounting Office to study whether the National Environmental Policy Act compliance requirements, the agency appeals, and the litigation that has oc-

curred were causing significant delays in hazardous fuel reduction projects.

The GAO issued a preliminary report in May. They just completed a final report last Friday. The GAO in that report reviewed 818 Forest Service management decisions over a 2-year period, fiscal years 2001 and 2002, and these 818 forest management decisions involving fuel reduction activities on 4.8 million acres of land. These were the first 2 years of the so-called national fire plan which we have all been trying to see implemented.

It is worthwhile to take just a minute to summarize what the GAO found. The GAO found that the vast majority of acres treated were categorically excluded by the Forest Service from NEPA review. That is a term of art, "categorically excluded." That means this is authority in the law for the Forest Service to say: We are going to exclude certain areas from NEPA review, and we have the authority to do that.

The GAO found the vast majority of acres that were treated were, in fact, categorically excluded. None of these projects were appealed, none were litigated, none were subject to appeal, and none were subject to litigation.

Only 25 of the 818 were litigated. That represents about 3 percent of all projects. That involved about 100,000 acres. Again, this is out of the 4.8 million acres that was studied by the GAO for those 2 years.

Significantly, the GAO found of those 25 cases that were litigated, 23 involved commercial timber sales. Of the 25 cases that were litigated, the courts found the Forest Service lost on all but one of those cases. So to the extent litigation was involved, the vast majority of the time the Forest Service was found to have been in violation of the law.

In my opinion, litigation is not the major problem. I am not saying we cannot do some things to streamline the appeals process and to be sure any frivolous litigation is eliminated, but I do think we need to recognize the GAO made a study that shed some light on what we are doing.

The majority of forest-thinning projects were categorically excluded from NEPA. In my State, in region 3 of the Forest Service, which included Arizona and New Mexico, the GAO found 78 percent of the projects were excluded, and that covered 91 percent of the affected acreage. So 91 percent of the affected acreage was never subject to appeal, never subject to litigation.

This is a useful report. There is a one-page summary of it. I ask unanimous consent that it be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. The only other report we have analyzing empirical data of the Forest Service appeals involved a 2003 study by a political science professor at Northern Arizona University.

Contrary to the assertions of the Bush administration, the Northern Arizona University study found the number of appeals had been decreasing since 1998.

I will speak a little bit about what I do see as a major issue as part of this legislation. Based on our experience with forest health issues in my State, the real issue has not been judicial appeals, judicial review, but instead has been providing adequate funding for forest health projects and stopping the Forest Service's harmful practice of borrowing funds from fire prevention accounts in order to pay for the cost of fighting forest fires. I will offer an amendment on that in a few minutes. I wanted to flag that as an essential problem I think needs to be dealt with. It is not dealt with in the amendment coming to the floor now, but I will give the Senate the opportunity to deal with it. I hope the Senate will agree with me this is something we need to fix.

I commend Senator BURNS and Senator DORGAN, the chairman and ranking member of the Interior Appropriations Subcommittee, for their efforts to secure \$400 million last month to repay the accounts the agencies borrowed in order to fight fires. I also appreciate Senator BURNS's comment that the \$400 million is not the final word, especially since the estimates those agencies have given is they actually had to borrow over \$600 million from other programs so far this year.

However, the year-to-year approach we have followed of borrowing funds from other accounts in order to deal with forest fires is just not adequate. Even when our Senate Appropriations colleagues were able to obtain supplemental funding to repay these other Forest Service accounts, every year on-the-ground restoration work is substantially delayed while the Forest Service waits for a supplemental appropriations bill to be enacted into law.

In New Mexico, there are some very critical Forest Service fire prevention projects that were postponed for up to a year as a result of borrowing from these accounts. These include wildland/urban interface fuels projects in the Carson National Forest, the Gila National Forest, the Lincoln National Forest, and the Santa Fe National Forest.

In addition, a contract for construction of a fuel break around a community at risk in the Cibola National Forest was postponed for 6 months because of the agency borrowing to cover firefighting costs.

This is not criticism of the agency. The agency has no alternative but to do this borrowing, the way we have set it up. What happens is very simple. The President asks for too little money for firefighting. He does that every year—at least he has for the last several years. I have some charts I will show in a few minutes on that.

The President asks for too little money. We in the Congress agree with

the President and appropriate too little money. Then when the fires start happening, of course, the Forest Service has to find ways to fight those fires. The only option they have is to shut down their activities in other areas and use that money instead to fight fires.

One of the other areas they shut down activity in is in this forest-thinning work, so that we put it off, say, OK, we cannot get it done this year; we are too busy fighting fires; we will try to get it done next year. Then next year comes and once again they may have to use the money they had hoped to use for the forest-thinning activities and the forest health activities to, in fact, fight fires. That has happened year in and year out. It is a classic case of being so busy killing alligators that there is not time to drain the swamp. That is exactly the position we have put the Forest Service in and we need to try to correct that. I will offer an amendment with the hope the Senate will agree with me and make that correction.

The lack of funding for forest health projects continues to constrain our efforts to actively manage our forests to deal with these disease and drought conditions which have been discussed at length. Three years ago, Congress found funding was the main obstacle to improving forest health and reducing a threat of unnaturally intense catastrophic wildfire. Specifically, we have created the National Fire Plan, with \$1.6 billion in new funding for existing programs, to improve forest health conditions. At that time, we all agreed on the need to sustain a commitment to the National Fire Plan over a long enough period so we could make a difference. We were talking about 15 years. That meant at a minimum sustaining the fiscal year 2001 funding levels for all components of the National Fire Plan.

Unfortunately, as I stated just a few minutes ago, the administration has systematically and continually proposed major cuts and, in some cases, zeroing out critical programs within that National Fire Plan, including the burned area restoration program, rehabilitation projects, economic action programs, community and private land fire assistance. So the proposed cuts we have received in the budgets each year have eliminated funding for these programs, notwithstanding the clearly identified demand for these programs. For example, New Mexico and other States have suffered unnaturally intense, catastrophic fires, and there is a desperate need for funds to restore and rehabilitate the burned areas.

Finally, the 2002 report and conclusion by the National Academy of Public Administration confirmed the main obstacle constraining the Forest Service from substantially increasing its proactive efforts to reduce fire risk is the lack of adequate funding. The proposed amendment to H.R. 1904 authorizes \$760 million. I appreciate the fact that funding level is in there, but it

does not ensure the real funding will be provided. The problem is, when we get into the actual appropriating of funds, we do not get the job done.

In earlier debates, I have repeatedly stated the Forest Service needs to focus its hazardous fuels reduction effort more directly on the threats communities face. We will have an amendment to that effect. I know Senator BOXER from California has an amendment to try to do a better job in that regard. I think that will be an important issue for us to try to deal with as well.

In sum, Congress required a sufficient proportion of all hazardous fuels reduction funds be spent on projects near communities. Nevertheless, the General Accounting Office recently found that more than two-thirds of the Forest Service decisions involving fuel reduction activities were targeted exclusively at lands outside this wildland/urban interface area. The amendment that has been brought to the floor here goes on to state that this requirement is based on a national average, this 50 percent requirement. They are saying we should have 50 percent going for projects near communities, in this wildland/urban interface. If you have a requirement such as that based on national average, obviously individual forests or even entire regions can significantly ignore this direction we were giving them.

In addition, the provisions of the amendment only apply to funds allocated for projects pursuant to title I of H.R. 1904 rather than to the entire hazardous fuels reduction program.

There are many questions about the specific language of the amendment at which we need to look. Let me talk for just a minute about the new administrative appeals process.

Apart from what the amendment does not do, I am very concerned with some of the things the new authority does try to do. The provision that seems the least developed in the amendment, the one that causes me significant concern, is section 105. This section directs the Secretary of Agriculture to establish a predecisional administrative review process that will serve as the:

sole means by which a person can seek administrative review of a hazardous fuel reduction project. . . .

This predecisional process is described as covering the period following the completion of the appropriate NEPA document up to the date a final agency decision is issued.

I understand the desire to ensure that interested members of the public are involved during the development of the proposed agency project, and to avoid lawsuits by those who have not been involved in the process, and I certainly agree with that.

However, I think the language is somewhat troubling. As I understand it, the language would limit the right to administratively appeal an agency decision, as well as the ability to chal-

lenge it in Federal court, to those who have exhausted the predecisional review process. So we are going to significantly limit the right to appeal or challenge a decision based on a process that has not been established yet and that we are not really clear on what it will permit.

There are other questions about that. As I understand it, there will likely be an amendment offered on that issue as well.

Let me say a word about the Federal courts because many of the others who have spoken have done that. The amendment that has been offered here limits the court's ability to issue a preliminary injunction to no more than 60 days, although a court can renew an injunction indefinitely.

In order to issue a preliminary injunction, a court needs to find several things: No. 1, that the plaintiff is likely to prevail on the merits. That is the first thing the court needs to find. No. 2, that there will be irreparable harm if the injunction is not issued. No. 3, the harm to the plaintiff in not issuing the injunction is not outweighed by the harm to the defendant of issuing the injunction. And, No. 4, that issuing the injunction is in the public interest.

So a Federal court has to find quite a few things to issue a preliminary injunction. Having made this determination, I wonder why we then are saying to the court, unless you come back and renew that injunction every 60 days, we in Congress are going to assume the agency was right and you were wrong. The court has already determined that most likely the agency is in error. So I have concerns about that.

I understand there is a great desire here to limit the Federal court's ability to issue injunctions, preliminary injunctions. My understanding is, also, that this not only limits preliminary injunctions, it limits the Federal court's rights to issue permanent injunctions in some questionable ways.

Let me say just briefly, I do think we need to be sure the bill has adequate protections for national monuments and for roadless areas. There are provisions to exclude designated wilderness and wilderness study areas from the bill. I think we should have that same provision apply to national monuments. I hope we can persuade our colleagues that that makes good sense. I have been told by some that is certainly their intent.

Turning to my home State, 3 years ago we created the Valles Caldera National Preserve in northern New Mexico. I think it would be good to know how the provisions in this amendment would be used there, in that type of arrangement. Perhaps we can clarify that. I hope we can.

There are several other questions about how this relates to other forest initiatives: How does it interact with recent legislative and administrative actions regarding forest health?

There is a stewardship contracting program that includes exemptions from

the National Forest Management Act and provides new authority for the Forest Service and for the BLM to trade the value of big trees removed by a contractor for restoration services completed by that same contractor. We need to see how this new legislation would impact upon that.

In addition, the administration has taken several regulatory actions recently under its Healthy Forests initiative. It has promulgated new rules establishing a categorical exclusion from NEPA, which would apply to projects, including timber sales, that cover up to 1,000 acres each. The administration has published new rules overhauling the Forest Service appeals process. Those new rules exempt all "categorically excluded projects from appeal."

In other words, the administration has taken significant action to deal with several of these issues. We need to know how this legislation affects the actions that have already been taken.

Slash treatments is another issue that I think deserves some attention. We have a serious issue here in that in my home State they go through, they cut down the diseased small trees, they put them into piles, and then they have to come back and do a sequential treatment, come back and remove that slash and be sure it does not become bug infested and become an even greater problem. The GAO analysis found that in my State the Forest Service and BLM completed only 19 of the 34 followup slash treatments that they had committed to do in a timely manner. Again, it is probably a lack of funding that has caused that shortfall.

I have some additional concerns and questions about the provisions in the amendment. I will raise those at the appropriate time as we get into the amendments.

In closing, let me reiterate I am very glad we are proceeding to consideration of the bill. Since some of us were not involved in the negotiations, I do think it is appropriate we offer some amendments. Especially it is important for Senators from States that are directly affected by this threat to have that opportunity. I commend the people who did work hard in getting this legislation to this point. I do think there has been a genuine effort to find some compromise and to make some improvements. Clearly, this bill as it stands is substantially better than what the House has sent us. But it can be substantially improved from where it is. I hope the amendment we offer can be seriously considered, and hopefully adopted, and we make those improvements.

With that, I yield the floor.

#### EXHIBIT 1

UNITED STATES GENERAL ACCOUNTING OFFICE—REPORT TO CONGRESSIONAL REQUESTERS

FOREST SERVICE—INFORMATION ON APPEALS AND LITIGATION INVOLVING FUELS REDUCTION ACTIVITIES

#### Why GAO did this study

The federal fire community's decades old policy of suppressing wildland fires as soon

as possible has caused a dangerous increase in vegetation density in our nation's forests. This density increase combined with severe drought over much of the United States has created a significant threat of catastrophic wildfires. In response to this threat, the Forest Service performs activities to reduce the buildup of brush, small trees, and other vegetation on national forest land. With the increased threat of catastrophic wildland fires, there have been concerns about delays in implementing activities to reduce these "forest fuels." Essentially, these concerns focus on the extent to which public appeals and litigation of Forest Service decisions to implement forest fuels reduction activities unnecessarily delay efforts to reduce fuels.

The Forest Service does not keep a national database on the number of forest fuels reduction activities that are appealed or litigated. Accordingly, GAO was asked to develop this information for fiscal years 2001 and 2002. Among other things, GAO was asked to determine (1) the number of decisions involving fuels reduction activities and the number of acres affected, (2) the number of decisions that were appealed and/or litigated and the number of acres affected, (3) the outcomes of appealed and/or litigated decisions, and (4) the number of appeals that were processed within prescribed time frames.

#### What GAO found

In a GAO survey of all national forests, forest managers reported the following:

In fiscal years 2001 and 2002, 818 decisions involved fuels reduction activities covering 4.8 million acres.

Of the 818 decisions involving fuels reduction activities, about 24 percent were appealed—affecting 954,000 acres. However, of the 818 decisions, more than half, 486 decisions, could not be appealed because they involved activities with little or no environmental impact. Of the 332 appealable decisions, 194 (about 58 percent) were appealed. There can be multiple appeals per decision. In addition, 25 decisions (3 percent) affecting about 111,000 acres were litigated.

For 73 percent of the appealed decisions, the Forest Service allowed the fuels reduction activities to be implemented without changes; 8 percent required some changes before being implemented; and about 19 percent could not be implemented. Of the 25 litigated decisions, 19 have been resolved.

About 79 percent of appeals were processed within the prescribed 90-day time frame. Of the remaining 21 percent, the processing times ranged from 91 days to 240 days.

The Forest Service, in commenting on a draft of this report, generally agreed with the report's contents. Their specific comments and our evaluation of them are provided in the report.

#### SUMMARY OF FOREST SERVICE DECISIONS AND APPEALS INFORMATION FOR FISCAL YEARS 2001 and 2002

Decisions/appeals	Little or no impact/not appealable	Impacts initially uncertain or significant/appealable	Total for all decisions
Number of decisions .....	486	332	818
Number of appealed decisions .....	3	194	197
Percentage of decisions appealed .....	<1	58	24
Acreage (in thousands) .....	2,989	1,804	4,793
Acreage appealed (in thousands) .....	4	950	954
Percentage of acreage appealed .....	<1	53	20

Source: GAO data and analysis.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized at this time.

Ms. MURKOWSKI. Madam President, we have had a great deal of discussion

about the fires raging throughout California this week. We talked about fire seasons in the past several years. The years 2000, 2002, and 2003 fire seasons have been some of the worst on record nationally. In 2002, in my State of Alaska alone, we experienced fires that burned over a million acres. Over a million acres in Alaska were burned in 2002. In this year, in 2003—this is from a report that is current as of yesterday, taking into account what is happening in California as we speak—to date, approximately 3.6 million acres have burned nationwide—3.6 million acres, and burning.

Forest fires are a huge problem, predominantly in the West, for those of us in the Western States. It is interesting to look around the Chamber this afternoon and see how many of the Western State Senators are paying very close attention to the debate on this legislation.

We know, we can see the damage to our forested lands from these catastrophic wildfires, many of which have resulted from forests that have been devastated by insects and by disease.

Deteriorating forest and rangeland health now affects more than 190 million acres of public lands throughout the country.

Again, as we have seen from the pictures which the Senators from California displayed and from the newspapers, the areas where the fires are ravaging the hillsides and destroying communities are areas that were affected by insects and disease.

I want to take us to a picture of Alaska, as the good Senator from New Mexico, Mr. DOMENICI, mentioned not too long ago. In my State, our forests have been infected and literally torn apart by a beetle known as the spruce bark beetle. The spruce bark beetle, other insects, and other diseases have devastated hundreds of thousands of acres along the Kenai Peninsula and in the Chugach Mountains, and outside of my hometown in Anchorage along the hillsides. You are talking about the wildland/urban interface communities and how it all plays out. I see that very carefully and very closely every time I am home.

The picture that I have behind me is a picture from the Kenai Peninsula in the southern part of the State. This is a picture of forests that have been totally wiped out by the spruce bark beetle. There is not a tree that you look at in the forefront or in the background that is alive. Every one of these trees are dead. They were killed by the spruce bark beetle.

As the Senator from New Mexico mentioned, it is like a Christmas tree that you have put out on the back porch and it no longer has any water. The leaves are crumbly to the touch and fall when you touch them.

These trees that you are looking at are probably 30 to 40 feet high. It is tough to estimate the girth of the trunk. But these are very mature old-growth trees that are standing waiting

for an accident to happen—waiting for a fire. This is not tinder sitting on the forest floor. This is standing tinder that is just waiting to be devastated and to devastate potentially property and human life.

As we look at this picture and understand the stands we are talking about here, I mentioned that there were hundreds of thousands of acres which have been devastated by insect and disease in Alaska. The spruce bark beetle has literally changed the forests in Alaska. Over 5 million acres of trees in south-central and the interior of Alaska have been lost to the spruce bark beetle over just the past 10 years.

This picture shows, I have been told, the result of trees that have been infested for about a 10-year period. These were perfectly healthy, strong, and living trees. The entire forest has been wiped out by the spruce bark beetle.

We are told in Alaska that this is one of the worst recorded incidents of beetle kill and infestation in our history.

You do not see any homes. You do not see any development. This is out in the wilds of Alaska, if you will. But adjoining the Chugach National Forest, off of the Kenai Peninsula, we have many smaller communities—certainly not a Los Angeles-type of community but we have homes. We have towns that adjoin these national parklands.

We have a little community called Moose Pass which sits right in the middle of dead and dying trees.

My home city of Anchorage, the largest population center in the State—about half of the residents of the State of Alaska live in Anchorage—is rimmed by the Chugach National Forest. We are dealing with the infestation of the spruce bark beetle as it is traveling north. The danger is made even worse when you couple it with the fact that we have had low snowfalls in recent years. Again, it is an accident almost waiting to happen. We don't want to happen in Alaska what we are currently seeing in California.

Our public land laws and regulations should not make it difficult to cut down the dead or the dying trees that are nothing but potential fuel for these catastrophic wildfires. Our Nation's policy has to allow for responsible forest management that includes the ability to remove, when appropriate, wildfire fuel from our forests.

That is why I am supporting the bipartisan amendment to title I of H.R. 1904. In particular, there is a subsection which will authorize treatment under title I on Federal land. This technical change allows for hazardous fuels reduction on Federal lands on which wind throw or blown down ice storm damage or the existence of disease or insect infestation has occurred and poses a significant threat to an ecosystem component on Federal land or adjacent non-Federal land.

I suggest to you, looking at this picture and understanding the extent of the insect infestation that we have, that it certainly poses a significant threat to an ecosystem component.

The Kenai Peninsula National Forest System land contains approximately 223,000 forested acres of which 119,000 contain spruce trees with a percentage of old growth. These old-growth stands are susceptible to the spruce bark beetle or are already dead.

The amendment we are speaking to—the bipartisan amendment under title I—will allow Federal land managers to manage the dead and dying tree stands.

The prespruce bark beetle epidemic condition on the Kenai Peninsula had a significant acreage in unmanaged old-growth spruce which was very susceptible to massive mortality and the buildup of the spruce bark beetle population. The key to long-term forest management on the Kenai Peninsula that will prevent a reoccurrence of the type of spruce bark beetle mortality is to manage the forested landscape for a variety of species' compositions, structures, and age classes—not simply unmanaged old-growth stands.

To maintain the watershed health—which we certainly need—the Chugach National Forest needs to manage the landscape on the Kenai Peninsula for a variety of species, structures, and age classes.

With the technical change that we are seeing in this amendment, it allows for old-growth stands such as those existing on the Kenai Peninsula to be treated without restriction related to the old-growth provisions that are being offered in other sections of the amendment.

I believe that with the legislation before us—the Healthy Forest Restoration Act—we have a comprehensive plan focused on giving the Federal land managers and their partners the tools they need to respond to national forest health crises. That is what we have in Alaska. That is what we are seeing in many parts of the West.

This legislation directs the timely implementation of scientifically supported management activities to protect the health and vibrancy of Federal forest ecosystems as well as protecting the communities and the private lands that surround them.

I support what we are doing with H.R. 1904 and certainly encourage Members' support.

Mr. COCHRAN. Madam President, after consulting with the leaders and those interested in talking about this amendment before we vote, I am now in a position to propound a unanimous consent request.

I ask unanimous consent that at 3:35 today the Senate proceed to a vote in relation to amendment No. 1828, with no amendments in order to the amendment prior to the vote; I further ask consent if the amendment is agreed to, it then be considered as original text for the purpose of further amendment; I finally ask that the following Senators be permitted to speak prior to the vote: Senator ENSIGN for 10 minutes; Senator BENNETT for 5 minutes; Senator MURRAY for 5 minutes; Senator KYL for 5 minutes; and Senator CRAPO for 10 minutes.

Mr. REID. Madam President, I ask the manager of this bill, the chairman of the committee, to modify his request to allow Senator LINCOLN 10 minutes, and that following the disposition of this chairman's amendment, Senator BOXER be recognized to offer the next amendment.

Mr. COCHRAN. Madam President, I ask that my request be so modified and that the vote occur at 3:45 instead of 3:35.

Mr. WYDEN. Madam President, for purposes of asking the distinguished chairman of the committee, it is your desire, I gather, we would then have the vote at 3:45 and that would in effect end the opening statements on this legislation; we would move to amendments, beginning with the Boxer amendment, and then throughout the rest of the day pick up the rest of the amendments and hopefully move as quickly as possible.

Mr. COCHRAN. The Senator is correct.

Mr. REID. Although I would say, if the distinguished Senator would yield, people still have an opportunity if they want to offer their comments on the bill itself. There is nothing in the request which would prohibit that.

Mr. COCHRAN. With that understanding, I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Madam President, I will make a few comments about the underlying legislation, the Healthy Forest initiative, and give a perspective from another western state, the State of Nevada, my home State, and some personal experiences I have had in the last few years.

I saw a wonderful program on the Discovery channel about the history of forest fires in the United States. They went back a few hundred years and talked about the natural burning of the forests and how forest fires occurred. We had fairly catastrophic fires in the early 1900s that changed our attitude because a lot of people were killed in those fires. It changed the way we looked at forest fires. We decided to try to put forest fires out using various methods of fire suppression.

Over the last 100 or so years, in trying to put out all these forest fires, we have stopped the natural clearing of the underbrush. As humans have moved more into the forests with our development, even if we wanted to go back to allowing natural burns to occur, we could not do that because of the devastation that can occur such as we are seeing in California with people living so close to the natural environment.

There are some things we can do to manage our forests so when the fires do occur they happen in a more natural fashion. What we have been seeing in the last several years is they are not natural fires. They are catastrophic fires and they burn the entire forest. They literally sterilize the ground.

There is so much fuel that there are incredible temperatures. When the forest fires used to move through, they would pretty much burn the undergrowth. They would char the big trees, they would char the bark on them, but they would leave the crown of the forest alive. As the forest fires moved through and cleared the underbrush, it gave the forest a chance to revive, gave a chance for little seedlings to take root. It was a nice cleansing process for the forests.

Now that we have started putting all the forest fires out, we have a huge fuel buildup. Now when the forest fires burn through, they burn the underbrush and they burn the crowns of the forest. They basically wipe the entire forest out. It is an unnatural event that is happening today. We are losing endangered species. When you wipe out the whole forest you lose not only animal life, you lose incredible plant diversity as well. We end up with erosion because there is nothing to hold the ground when the rains come.

I have been in the West almost all of my life—mostly in Nevada, lived in Oregon, lived in California, lived in Colorado some, attending schools—and I have visited a lot of forests there. We have our family reunion up in Black Butte every summer. I was there during the huge forest fire Senator SMITH was talking about earlier; that is still going on. We were there July 4 and that fire is still going on today. They are waiting for the snows to come to put that forest fire out.

In comparing the forests from the East to West, in the East there is much denser forest. That may be OK because of the amount of rain and the amount of moisture in the East. We do not get that kind of moisture in the West. My State, the State of Nevada, is the most arid State in the entire country. We have what are called "desert forests" that do not have a lot of undergrowth. That is where those forest fires are able to move through, clear out a little of the underbrush and leave the crowns pretty much intact.

What happens in the West versus the East, we get periods of drought. We are in about a 5-year drought right now in the West. We had 3 good years before that of rain. Before that was another 6-year drought. During those periods of drought you get the bark beetle. Senator MURKOWSKI was talking about in Alaska. We have that in our State, especially around Lake Tahoe. During the 6-year period of drought, the bark beetle devastated a lot of trees in the Lake Tahoe basin.

I was up there touring some of the Federal lands, some of the State lands, and saw the difference in our policies, State versus Federal. Comparing State versus Federal versus private lands, the least healthy forests are the Federal lands. That is what this underlying bill is trying to correct, the problems we see on Federal lands.

In the State lands, they are cleaning the underbrush. There is a lot of emo-

tion generated by the groups participating in these projects. As a matter of fact, in one area where they were doing the thinning of the underbrush—it is not just underbrush, but they are clearing out the fir trees. The big Ponderosa pines are being choked out by the fir trees. A lot of fuel goes in there. The sunlight cannot get in so these pine trees can grow in the way they were intended to grow naturally. When they were going through and cleaning and clearing some of this out, they got a lot of complaints because it was near this very popular hiking trail up at Lake Tahoe. There were a lot of complaints and protests.

A year after the first area was cleared out, they saw the positive ecological results of that clearing. One result is that the aspen trees are coming back to that area. They were choked out by the fir trees. There is more biodiversity. If a fire now goes through, it will burn naturally instead of the catastrophic fires we have seen so much in the West. Six hundred thousand acres so far have burned in the State of California. That is a huge amount of land.

In 1999, in my State, 1.8 million acres burned. We have been lucky the last few years, but my State is ready to go again, just like most of the western States. It is not just the forest fires we worry about from these fires, like the almost 2 million acres we had in Nevada—and fires in California, Oregon, Idaho, Arizona, and on and on and on in the West—these forest fires are creating air pollution.

We just got calls, because the winds shifted in California, and the pollution from the fires is now coming to Nevada because the winds changed directions.

When the Oregon fires were blowing last year, the pollution from them came down into the State of Nevada. I was up at Lake Tahoe, and, boy, you could not even see. It was like we were in a horrible pollution day down in Southern California. It was so dense, the pollution was so bad, and the ash came down from these forest fires.

It is not just the forest health we are worried about, it is also our air's health. If people who care about air pollution want to do something, the No. 1 thing we could do is to make sure we have healthy forests into the future. Because if we do not have these devastating fires, we will not have as many acres burn per year and as much of that stuff going up into the air to cause pollution. These fires that are occurring are much worse than anything man is producing on an industrial basis. To protect our air, we should be doing this.

Protecting the environment, protecting property, and protecting people are not mutually exclusive. We can do all of them together if we have reasonable laws. That is really what this bill is about.

Two other areas I want to talk about quickly. One is in Carson City, and one is in Ely, NV—great initiatives on this urban interface with the forests that

were going on. The one in Ely occurred on Federal lands. Everybody was together. Environmentalists locally were together with local governments and the Federal Government. Everybody was together on this initiative. They had it all worked out. The plan was in place, ready to go. One person from Idaho filed a protest. They didn't even live in our State—one person from Idaho. Almost 3 years later, we are still waiting to implement the plan, and a fire that comes through there would be devastating. One person from Idaho—that is what this bill is trying to fix, to make sure that one person cannot stop land managers from doing the right thing.

The other quick example is Carson City. It is not Federal lands. It is State lands, local lands. All the people who care about the environment worked together. They have a beautiful fire protection plan being implemented that is ecologically balanced. It is protecting the local communities as well as protecting the forests. That is the type of balanced thinking we need going forward so we protect people, we protect property, and we protect the environment all together.

I also want to express my condolences to all of those who have been impacted by the fires in California, especially those who have lost friends and family members. While this legislation will not help the people fighting forest fires today, it will hopefully prevent such fires from occurring in the future.

The Healthy Forest Initiative authorizes hazardous fuel reduction projects that are essential for the health and well-being of our Nation's forests. It focuses on specific at-risk areas that are at the greatest risk of wildland catastrophic fire, the kind that has devastated California, my State's neighbor. These kinds of fires are intense, they are unforgiving and they certainly don't discriminate as to what will lie in their destroying path. My heart goes out to those whose lives have been affected by catastrophic fire.

To reiterate, in my home State of Nevada, our worst fire year was 1999 when 1.8 million acres burned. Since then we have been fortunate compared to other States. But we know that it is only a matter of time before fires ravage our land again. Currently there are over 10.7 million acres that are at-risk for catastrophic wildfire in the State of Nevada. That's 10.7 million acres that need to be treated immediately. With the proper treatment, we can lessen the effects of the fires that will inevitably come. It is not a question of if fires occur, but a question of when.

Catastrophic fire occurs every year. This year California and Oregon have been hit; last year it was Colorado, Oregon and Arizona. In past years, New Mexico and one of our Nation's most treasured national parks, Yellowstone faced catastrophic fire. In 1999, when 1.8 million acres burned in Nevada, unfortunately, that was not a one-time



event. In the past 5 years, 3.3 million acres have burned in Nevada.

However, that being said, there are excellent tools available to the land managers of this country. Thinning densely wooded areas and cleaning out excess brush lessens the ability of fires to spread as fast, burn as hot, and consume as much as they already do. To carry out these projects, land managers must go through a rigorous assessment process. They must ensure that the public is able to participate in the process. And they must comply with current environmental statutes and forest plans. This is appropriate and necessary. It is a very lengthy and thorough process that all too often is railroaded by one dissenter. One extreme group will fight it through the administrative appeals, the courts and will do everything to kill a completely collaborative process.

A recent GAO report noted reported that the vast majority of appeals to fuels projects result in no change in the Forest Service's decision. Only 19 of the 180 appealed decisions were reversed, which means that the remaining 161 projects—89 percent of those appealed—were delayed unnecessarily. We say it time and again, but frivolous lawsuits which put these projects on hold are a threat to homes and people. More than half of the appealable decisions that were designed to protect communities from wildfire were appealed. During the review process, these communities remained under the threat of catastrophic wildfire. We do not have the time to provide extreme groups the luxury of thwarting sound management decisions. It has happened in my State, as I mentioned before, and it happens more and more every year.

That is why passing this amendment is so important. It expedites the approval process. It cuts through the bureaucratic red tape. It still ensures that administrative appeals and judicial review is available to the public. However, only individuals who have actively participated in the administrative appeal process can then challenge the final decision in the courts so these projects cannot be blindsided by those who refuse to participate in the full process.

I stood here a little over a year ago and called for this type of action. I was joined by so many of my colleagues in this body, and yet again nothing was done. Since that time we have seen millions of acres burn throughout the country. The Forest Service has estimated that 2.8 million acres have burn in 2003 alone and that does not count the millions of acres in California and the more than 1500 homes destroyed over the weekend, not to mention the deaths of those struggling to escape these deadly fires. I don't want this to happen to Nevada. I don't want this to happen in any State. I don't want to stand idly by and allow this kind of destruction to go any further. We need to do something and we need to do it now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 1708

Mrs. MURRAY. Madam President, in just a couple minutes I am going to offer a unanimous consent request to move to consideration of a bill to provide extended unemployment compensation benefits to displaced workers and to those who have exhausted their benefits.

Today there are 9 million Americans who are unemployed, and the percentage of long-term unemployed is at a 20-year high. Our first priority in this Congress should really be to get America back to work. The current unemployment benefit extension, as I think all my colleagues know, expires at the end of December.

Our economy is continuing to create only one job opening for every three unemployed Americans. So it is clear the current Federal program is inadequate to address the needs of out-of-work Americans in today's troubled economy.

Another extension with no additional weeks of benefits will leave far too many of our workers and their families out in the cold. In my home State of Washington, there are 124,000 people who will exhaust their benefits by the end of the year. In addition, more than 1 million Americans have run out of unemployment benefits and remain without work. These Americans have been stretching their savings, refinancing their homes, moving in with other family, and depleting their retirement accounts. Three out of four workers are now running out of benefits before they find a job.

In past recessions, we have included these workers in additional extensions. But so far Republicans have insisted on leaving them out. The Emergency Unemployment Compensation Act, which we are introducing, would help 4.6 million Americans make ends meet while they search for new jobs.

I know we are dealing with a forest health issue today. It is extremely important to many Senators. But we have also thousands of Americans whose extensions are going to run out very shortly. Everyone is working very quickly here to wrap up all the bills. We all want to go home. I know when we go home, we want to make sure the people we go home to are not left out in the cold.

I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 1708, a bill to provide for a 6-month extension of unemployment compensation, with additional weeks of benefits, as modified to strike title II and ensure that high unemployment States are not penalized for having high unemployment throughout the recession; that the Senate then proceed to its immediate consideration; that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. CRAPO. Madam President, we are on a very critical bill right now and I must object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Madam President, I heard the objection from my colleague on the other side, and I would like to have him respond, if he would, as to when the Senate will consider this important piece of legislation.

As I said in my remarks, I know we are dealing with an issue that is important to many States, but we have to provide some financial relief to millions of Americans as we approach the holiday season.

I know my colleague understands the current extension ends on December 31. We are all working quickly to go home. I want to know if we can get a commitment that we will go to this bill so we can provide for these workers so they can be at home paying for their food and shelter that is so important to them. Can my colleague tell me when the Senate will consider this legislation?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Madam President, I would be glad to respond.

As the Senator from Washington knows, all of us have very critical issues that are very important to us, that we are trying to get time on this floor to consider. The way we handle that is we work with our respective leadership in scheduling these matters. I am not in a position right now to speak for either the leadership on the other side or my own leadership with regard to what kind of an agenda they intend to put forward with regard to the floor. What I do know is we have waited our time for this Healthy Forests legislation to come forward. We now have been given floor time, and we cannot relinquish it. Therefore, I will just encourage the Senator from Washington to work with her leadership and our leadership to see when the scheduling issue she wants to address can be brought forward.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I thank my colleague. I know he is not in a position to speak for his leadership at this time. I would just say to all of my colleagues on the floor, it is critical we allow time as soon as possible. We can take as short as 10 or 15 minutes to get this passed. We have thousands of constituents across the country whose benefits are going to expire. If we wrap up this session and go home without passing this bill, we are going to leave them out in the cold without the ability to put food on the table, pay their rent, pay their mortgage, pay their college tuition bills, and really make it through a very difficult time.

As we all know, the unemployment in this country has risen. We know more people today are unemployed than there were a year ago. The numbers are rising. The extension needs to be passed.

I notify my colleagues I intend to continue to come to this floor on a daily basis to try to bring up this bill until we get a commitment from the Republicans to have a vote on this extension.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. Thank you, Madam President. I yield the floor.

Mr. CRAPO. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAPO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Madam President, I ask permission to utilize the 10 minutes which I have been allocated under the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Madam President, we are getting close to a vote on this amendment. I wanted to take this opportunity to respond to a couple of the issues that have been raised by those in opposition to it.

First, it is notable that very little in opposition to this amendment has been said. There are a few things I will get into, but the fact is, as we said at the outset, a broad group of bipartisan Senators have come together to address the issues from all perspectives and build a common ground forward. I believe the relative lack of attack and concern that has been raised with regard to this amendment is indicative of the success which those Senators have achieved.

There have been a few criticisms made though. I want to respond to some of them.

First, with regard to the allocation of the resources, it has been argued that only 50 percent of the resources have been allocated to the wildland/urban interface. Remember, we have \$760 million worth of resources allocated in this bill. The point, however, needs to be made that in addition to the fact that our wildland/urban interface needs to be addressed, much of the problem exists out in the forests away from that wildland/urban interface. In fact, when the forests get hot and get burning, when you get winds such as we are seeing in California right now, it is very important to have protection more than just 100 yards or a couple hundred yards away from the wildland/urban interface.

We are seeing in California right now what high winds and geography can mean with regard to a forest fire, and we must have the flexibility in our forest managers to make the decisions about where the best management should occur.

We also have heard that there is apparently a disagreement between the proponents and opponents of this legis-

lation with regard to what the real problem is. Those who oppose this amendment say that the real problem is that we are not putting enough resources into fuel management and fuel reduction issues. Those of us who are proposing the legislation are said to be focused more on trying to reduce litigation.

The fact is, this is an indication of the fact that there are different points of view as to what we ought to be doing. It is what this bipartisan group of Senators did to address the issue. There are some who believe we need to solve the problem by putting more resources on the ground and getting those resources out there in forest management. That is why this bill authorizes \$760 million of resources to go into the management of our forests.

We do, however, recognize that there is a large problem in the litigation arena. It is that litigation problem that the bill also addresses.

There have been arguments made that as a result of our efforts to address the litigation paralysis, public involvement has been limited. That is simply not true. No public involvement under NEPA has been eliminated. In fact, the predecisional appeals process we are proposing to create in this legislation will create a new avenue of public involvement. What we are saying, however, is that the litigation has to be brought in the State or the district where the fire is, where the proposed project is. Those who want to get involved have to exhaust their remedies, a very standard legal procedure that is required in many areas. Before you are going to file a lawsuit, go through the administrative procedures that are provided to try to achieve your objectives. And then, finally, if that doesn't work, there still is the route of litigation allowed. We simply encourage the courts to act expeditiously and require the courts to look at it every 60 days to see if the circumstances have changed.

I believe these are reasonable and fair protections that are built into place.

There has been discussion that even though we have \$760 million allocated for forest fuel reduction projects and management in this bill, that the bill doesn't guarantee that that money will go there because it is not an appropriations bill. That is the same thing that is true about every authorization bill. The fact is, when we authorize these moneys, under the way the Congress works, it is still necessary for the Appropriations Committee to then appropriate the moneys. We will be working with the Appropriations Committee to take that next step. But to criticize this amendment because it is not an appropriations bill is simply to put up a false attack and to create a false impression that this is not a meaningful authorization of \$760 million, subject, as all bills are except for entitlement programs, to the appropriations process.

One final point: There has been an argument that litigation really isn't the

problem because a recent GAO report showed that the vast number of forest management decisions were not appealed. That study and the way people use it shows how you can use numbers to achieve different results depending on the outcome you want to address. The fact is, categorical exclusions represented a significant number of the actions of the agency. These are actions which the current law—not this law, but current NEPA law—does not require or allow to be appealed.

The reason is because they are basically the kinds of actions that have negligible or have no impact on the environment. It is things such as cutting firewood and mowing lawns and other types of categorical exclusion activities. There is more than that that is in that category. But the point is, these are categorical exclusions for things that have no significant environmental impact.

That is a current part of the existing law. When you look at the proposed treatments that have been more than a categorical exclusion, that require further NEPA analysis, then the level of appeals goes up dramatically. In fact, 59 percent of them are actually appealed. Of those that were appealed, it is interesting to note that most are found to be without merit; 19 out of 180 were reversed.

My point is, as I said earlier today, even though these appeals may be lost, what they do is cost the time, sometimes a full year or more, for the implementation of the management decision, which in many cases makes it moot at that point because the insect infestation has gone beyond the proposal, or because a fire has occurred or something else has made it so that the Forest Service simply can't proceed.

We are facing litigation paralysis. We do need additional resources on the forests. This is the first legislation in the history of the country that has provided statutory protection for old growth. This is a bipartisan compromise that will help us move significantly forward in these efforts to address this critical problem in our country.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I ask unanimous consent that Senator MILLER and I be added as cosponsors of amendment No. 1828.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Madam President, I appreciate the comments made by my colleague from Idaho and I rise to give a case study example of what he is talking about. We will give States and specifics here. They are similar to those that came from the Senator from Alaska.

In 1991, a forest health aerial detection survey was made in Utah that discovered the bark beetle in certain parts of the Dixie National Forest. Forest

health specialists advised that it might be necessary to suppress the epidemic by removing some of the infested trees and thinning some of the standings. At the time they made that decision, this photo depicts what the forest looked like: healthy, green, a place that was of some pride to the people who lived there. This is called the Sidney Valley Recovery Project, proposed as part of the strategy to suppress the spread of the epidemic into that area.

As soon as this was announced, three different environmental groups filed appeals of the project and, naturally, it was delayed while those appeals were heard. Finally, after the delay, the Forest Service was upheld, so the appeals were examined and found to be without merit. The Forest Service was upheld. The Southern Utah Wilderness Alliance chose to file a suit in Federal court. There were the typical delays connected with litigation, and the Federal court finally threw out the lawsuit.

So you had the appeals to begin with; they were disavowed; and then you had a lawsuit. When that was disavowed, OK, now you can go ahead with your effort to protect the forest. The only trouble was, at that point, this picture depicts what the forest looked like. These are not trees with leaves turned because it was fall. These are pine trees. The reason they are brown is that they are dead. If you drive through the Dixie Forest, which I have done, it almost makes you sick at how terribly decimated the forest has become. The only reason is that the Forest Service's professional managers, trained in dealing with these kinds of epidemics, were prevented from going in there by special interest groups until it was too late. I am sure there were mailings made in these environmental groups saying: Help save the Dixie Forest from the people who would build roads.

Well, they saved the Dixie Forest from the people who might put in logging roads, but they killed it in the process. The epidemic has now spread and there is no stopping it now. There is no going back. There is no saying, let's reverse this. The trees are dead and the Dixie Forest is a blight. The people who live there and know how to take care of these things are sick at heart at what has been done, while those special interest groups, most of whose members do not live in Utah, can claim victory. Well, they cannot claim victory in the lawsuit because they lost the lawsuit. They can only claim victory if their goal was to destroy the forest.

It is summarized by one of the former managers of the Dixie Forest who says: "It leaves us with the strategy of win the lawsuit, lose the forest."

I have a terrible time understanding why people who claim to be "friends" of the forest, "friends" of the environment, end up producing this kind of result. That is why I have joined as a cosponsor of this amendment. I applaud

the administration for their initiative in saying let's have healthy forests. Fortunately, the Dixie Forest has not yet caught fire. But the trees are just as dead either way. The blight is there just as much either way. We may have been spared the devastation of fire for the communities around the Dixie, but we have not been spared the devastation of the epidemic that has destroyed this portion of the Dixie Forest.

For that reason, I am proud to be a cosponsor of this amendment, and I urge all of my colleagues to vote in favor of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, I am very proud to be in the Chamber discussing the Healthy Forests Restoration Act with an eye toward its quick passage through the Senate.

I first want to applaud both Chairman COCHRAN for shepherding this bill through the Agriculture Committee and to the floor.

I'd also like to thank Senator CRAPO, who chairs the Forestry Subcommittee, for his leadership in moving this legislation through the Committee expeditiously.

Chairman DOMENICI and Chairman COCHRAN, and Senators CRAPO, WYDEN, FEINSTEIN, CRAIG, KYL, MCCAIN, and I have brokered a workable compromise to Title I of this bill which we believe will prove amenable to the Senate and move on to a conference with the House.

Want to especially thank our staffs, who have put in many hours of hard work over two months to bring us to this point.

this bipartisan compromise legislation builds upon the Healthy Forest Restoration Act, which passed the House of Representatives earlier this year.

Our legislation will ensure that we can address the many problems affecting all of our Nation's forests—both on public and private forestlands, in southern and western forests, and throughout both hardwood and pine ecosystems.

This legislation is intended to correct the direction of forest legislation in this country.

I am also proud that the bill contains many provisions that I have championed and that are beneficial to my home State of Arkansas.

I began my work on this legislation with the intent to accomplish a few, very specific goals related to the health of Arkansas' forests.

First and foremost, we must provide the Forest Service with the tools necessary to immediately address the epidemic of oak decline and mortality in the Ozark highlands of Arkansas and Missouri.

I am proud the bill incorporates language I have championed to provide the Forest Service with the tools necessary to immediately address the epidemic of oak decline and mortality in

the Ozark highlands of Arkansas and Missouri.

Just as our Western forests are under constant threat from fire, our Eastern forests are under constant threat from insects and disease.

We cannot let any more time pass without ensuring the Forest Service can quickly mitigate the effects of insect and disease damage throughout our forests before it reaches disaster proportions.

Oak decline is a natural occurrence in older forests or in areas where trees are stressed by conditions such as old age, over population of the forest, poor soil conditions, and the effects of several years of severe drought. And under normal conditions, oak decline is not necessarily fatal to the tree.

However, these conditions have allowed insects such as the red oak borer to flourish throughout the forest and have led to an epidemic of oak mortality throughout our forests.

In fact, many estimates now suggest that potentially up to one million acres of red oaks have been affected in the Ozark highlands—a devastation we never anticipated.

It is important to note that this epidemic has not been long in coming—it was only first discovered in the late 1990s, and quickly was out of control.

I am concerned that this epidemic will lead to a complete loss of red oak from the Ozark highlands and cause long-term changes to the health of the forest ecosystem.

It is also important to remember that the epidemic has not been limited to public lands. Private forest landowners and homeowners throughout the Ozarks face the same problem. The past several years of extremely dry summer conditions have weakened trees throughout the region.

Secondly, as we have seen, Arkansas was caught almost flatfooted as the epidemic of oak mortality swept through the Ozarks and severely endangered the health of our forests.

One of my priorities was to establish a new Upland Hardwood Research Center to ensure there is adequate research performed on the issues affecting Arkansas' and this Nation's hardwood forests.

I am pleased that the bill includes language I authored to establish an Upland Hardwood Research Center within the U.S. Forest Service. This new center will study the myriad of insects, disease, and problems affecting our ability to rehabilitate, restore, and utilize our upland hardwood forests. Establishing this new research center will help ensure that this does not happen again.

The establishment of this new research center is necessary to ensure we can quickly identify and respond to the multitude of pests, disease, and other damaging agents that can dramatically affect our beloved forests, especially when they are smaller ones as we have in Arkansas.

It is also important to find ways to streamline and improve the environmental, administrative, and judicial

review process for hazardous fuel reduction projects under this legislation.

I join many of my colleagues in believing that the review process for hazardous fuel reduction projects, while necessary and beneficial, often consumes more time, effort, and resources than the initial intent of the project.

As we have seen with the epidemic of oak mortality in Arkansas, the Forest Service must have the ability to quickly respond to insect infestation in order to protect, preserve, and rehabilitate the entire forest.

Streamlining of the environmental, administrative, and judicial review process for hazardous fuel reduction projects will ensure that we can quickly address what ails our forests.

This legislation also provides increased funding and direction for forest land research in this country. It will ensure our Nation's colleges and universities are able to devote more research into the insects and diseases affecting our forests.

We also require that any forest land research is conducted at a scale appropriate to the forest damage and that it be conducted within the requirements of each individual forest management plan.

Our legislation also includes requirements to ensure this research has clearly stated forest restoration objectives and is peer reviewed by scientific experts in forest land health.

I am also pleased the bill incorporates additional language from S. 1449 to provide funding for emergency grants to immediately remove the invasive plants that have become so pervasive throughout this Nation's forests. As many know, when we talk about invasive plant species in the South, you bet we are talking about kudzu.

Kudzu was brought into this country several decades ago to be used as cover for bare hillsides and has since spread to cover everything, including shrubs, bushes, entire trees, and oftentimes large sections of our forest. The grant program will provide the means for landowners to immediately remove kudzu and the myriad other invasive plants that are choking out forests.

Finally, this legislation includes widely agreed upon language that would provide for grants to remove noncommercial biomass from our public and private forests, provide for protection of our private forested watersheds, and provide for grants to establish private healthy forest reserves throughout the Nation.

Many of these important provisions were included in the Senate-passed farm bill last year, but they were not included in the final legislation, unfortunately.

Providing grants to remove noncommercial biomass will immediately reduce the amount of fuel on the forest floor and directly reduce the fire danger in our forests and around our communities.

Similarly, providing grants to protect our forest watersheds will ensure

that we can address our water quality concerns with a voluntary, incentive-based approach.

Finally, providing funding to establish new healthy forest reserves from willing private landowners will encourage the preservation and rehabilitation of this Nation's forest lands.

I believe this important legislation will focus needed attention on a number of extremely critical goals for our national forest policy.

One lesson we have learned over the years is that if we value our forests and if we want to conserve our woodland resources, if we want to preserve their natural beauty, if we want to ensure that the natural bounty of our forest land is available to future generations to come to know and love and enjoy just as we all have in our different parts of this great country, then it is important that we manage those lands and resources with a careful eye toward their long-term health.

I look forward to this legislation's quick passage through the Senate and its quick enactment into law. I am delighted by the leadership provided by all of the Members working on this issue. I very much encourage my colleagues to join us in supporting Senator COCHRAN's amendment and moving forward with this bill in a timely way.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, if ever there was a bill where one could say its time has come, this is such a bill. It is critically important at this time for us to move forward to a vote on the Healthy Forests initiative. The House has passed a bill. We can pass a bill, get it to conference and the President for it to become law before the end of this legislative session. That must be our goal.

I begin by thanking Senator COCHRAN and members of his committee. They worked very hard to arrive at a compromise that was bipartisan, that could pass the Senate and be signed by the President. I am very appreciative of their hard efforts.

I thank the President for his leadership 2 years ago in putting this proposal together. What has been passed is not precisely what he proposed, but that is part of the compromise legislative process. We have worked to get a bill we can pass and, while not exactly what the President has proposed, as I said, it is a very good effort.

I want to select one other person who illustrates the effort to make this bipartisan. Last year, Senator FEINSTEIN was involved in our negotiations to come up with a bill. We got very close, but we could never get a bill we thought would have 60 votes to pass the Senate.

What did she get for her very hard efforts at fighting for this issue? She got vituperative ads run against her in her home State by radical environmental groups that criticized her for even

talking to Republicans to try to come up with a solution.

The reason I mention Senator FEINSTEIN is because she was working on this long before the California fires that are now raging out of control. In fact, this compromise was put together before those fires ever started. So the people who were working on this before I think deserve some very special credit.

I also express thanks to those now supporting us because they have seen what can happen in the form of the California fires. Two years ago, we had these kinds of fires in Arizona. I thought that would awaken people to the danger that our overcrowded forests presented. I guess I didn't do a good enough job and others didn't in showing people what could happen in other places.

In just two fires, an area larger than the size of the State of Rhode Island burned. Two-thirds was on one of our very fine Indian reservation areas and about a third on Forest Service land. The President came to visit. Whole towns were evacuated. People lost their lives. But it still wasn't enough.

Earlier this year, the President again came to Arizona after the Aspen fire. The Aspen fire, on top of the Santa Catalina Mountains north of Tucson, burned about 350 homes in the space of less than 4 hours. I thought, finally this will awaken people. Still, it did not occur.

Over time, thanks to the leadership of the members of the Agriculture Committee and others, this legislation was put together. I express my appreciation that now that this conflagration is occurring in California, we are actually able to get this bill done. I think the Arizona experience illustrates the solution as well as the problem.

Let me give one example. I mentioned the Rodeo-Chediski fire. Most was on the White Mountain Apache Reservation. They are subject to the same environmental laws that apply to the Forest Service or the Bureau of Land Management. They went to work and got the work done. They began salvage operations—in fact, they completed salvage operations on the Indian reservation for the timber that had burned.

The reason they can do that is because it is very hard to sue an Indian tribe. Obviously, nobody did, and they got the work done, and their land has basically been salvaged from that fire.

The Forest Service put out a very small proposal on what is called a categorical exclusion area. Boom, they got hit with a lawsuit. Over a year later, the judge finally said: This process has to go forward. So he denied the relief of the plaintiffs who were not even from the State of Arizona.

It was basically too late to do very much work. They got some of it done, but the wood began to rot. It is called bluing, and it loses its character which is suitable for timber. You have to use

it for pallets and other uses that have low economic value. That was on a small piece of the land. The rest will never be salvaged. Why? Because it is easy to sue the Forest Service.

One of the things this legislation does, the Senator from Arkansas noted, is to streamline the process. One of the ways it does that is to say instead of having an unlimited number of alternative plans for a particular project in your NEPA analysis, under the National Environmental Policy Act, you do an environmental impact statement and show the various options: the no-action option, the option that is proposed, and one alternative.

Under existing law, you might have to have 20 alternatives. That might make sense if you are doing timber sales for logging. That is not what we are doing. We are trying to restore the health of the forest. The whole concept has been environmental, and there has been a lot of environmental work done on these projects before they are ever proposed, so you don't need a lot of alternative plans. That is just one example.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Madam President, I appreciate the hard work of my colleagues and hope they support this legislation.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 1828. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—97

Akaka	Chafee	Ensign
Alexander	Chambliss	Enzi
Allard	Clinton	Feingold
Allen	Cochran	Feinstein
Baucus	Coleman	Fitzgerald
Bayh	Collins	Frist
Bennett	Conrad	Graham (FL)
Biden	Cornyn	Graham (SC)
Bingaman	Corzine	Grassley
Bond	Craig	Gregg
Boxer	Crapo	Hagel
Breaux	Daschle	Harkin
Brownback	Dayton	Hatch
Bunning	DeWine	Hollings
Burns	Dodd	Hutchison
Byrd	Dole	Inhofe
Campbell	Domenici	Inouye
Cantwell	Dorgan	Jeffords
Carper	Durbin	Johnson

Kennedy	Miller	Shelby
Kohl	Murkowski	Smith
Kyl	Murray	Snowe
Landrieu	Nelson (FL)	Specter
Lautenberg	Nelson (NE)	Stabenow
Leahy	Nickles	Stevens
Levin	Pryor	Sununu
Lieberman	Reid	Talent
Lincoln	Roberts	Thomas
Lott	Rockefeller	Voinovich
Lugar	Santorum	Warner
McCain	Sarbanes	Wyden
McConnell	Schumer	
Mikulski	Sessions	

NAYS—1

Reed

NOT VOTING—2

Edwards

Kerry

The amendment (No. 1828) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

Mr. REID. Mr. President, I have spoken with the distinguished manager of this bill. He has agreed also with Senator HARKIN that Senator BOXER is going to speak for about 10 minutes on the bill. I will offer an amendment and speak for a few minutes on that, and then, with the suggestion and consent of the managers of the bill, she will ask that amendment be set aside and offer another amendment. The leadership has agreed we would have two votes at approximately 5:15, something like that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, I thank Senators COCHRAN and REID for allowing me to do this. I have been waiting for quite a while. We can get through some of these amendments.

I rise again with a heavy heart to report on the fires raging in my State and bring the Senate up to date on what is happening as of my last report at 3:30 p.m.: 600,000 acres of land have been burned, more than 3 times the size of Chicago; 2,000 homes have been destroyed, 18 people are dead. Governor Davis has declared Riverside County a state of emergency. Riverside has asked the President to declare a national disaster there. I have written to the President asking him to act.

In San Diego, we have 30,000 people without power. Our public schools are closed due to bad air. The Cedar Fire in San Diego is raging out of control. It is threatening to merge with the Paradise Fire. The fires as of 3:30 were only 5 miles apart.

The head of the California Department of Fire, Chief Chuck Mayner, said that they have not gotten all of the equipment and the help they have asked for. Senator FEINSTEIN and I have been getting different information. It is a little disconcerting. Yesterday, I heard they got all the equipment. Today I hear they have not. We

actually have heard from CDF Chief Mayner that he has not gotten all the equipment and the help. That is backed up by Jim Arta, the deputy chief. I have a list of the things they have asked for. I hope FEMA will act on this.

I have met with Mr. Michael Brown. He is very open to doing all he can, but I merely want to say on the record that we need help. We need strike teams. Strike teams are a combination of resources composed of fire trucks and personnel. We need strike 2 teams composed of fire trucks designed for fighting brush fires. We need 11 engine strike teams for the Paradise Fire, 33 hand strike crews, 12 single resource dozers, two type 1 helicopters, one type 2 helicopter.

We need for the Cedar Fire, in addition to strategic 1 strike teams, strike 3 teams, five type 3 helicopters, four type 1 helicopters, and one type 2 helicopter.

As I stand here giving this report from just a few minutes ago, we are not getting all the help we need to fight these fires. We need it desperately. We urge everyone to work together to get the equipment into these areas.

Our brave firefighters are working to save Julian, which is a town in San Diego County. The winds are making the situation worse. There were hundreds of firefighters working there. The city of Cuyamaca is 90 percent destroyed and 150 homes are gone. In Ventura, we have the Scenic Valley Fire threatening the Stevenson Ranch area. They are already asking us for a FEMA disaster center there.

In San Bernardino, we still have the Old Fire. It is raging out of control, threatening Big Bear and Lake Arrowhead communities. Unpredictable winds are making things worse.

I had a good meeting with a FEMA director today, and a good meeting with Governor-elect Schwarzenegger today. We are all on the same page. We all want to open disaster centers, disaster assistance centers, known as DACs, in the State. I had recommended one in each county. We will have that, plus a couple of mobile units. We are probably going to need more disaster centers because we are talking about so many miles, so many acres. Six hundred thousand acres is a lot of land here. We do not want people to have to go far distances to get what they need.

I want to show a few pictures to my colleagues so you can see what things look like. This is a picture of a home burning in San Bernardino. You can see the raging fires there. Somebody's hopes and dreams are just gone.

I show you a Marine Corps base in San Diego. This is Camp Pendleton. This is a hillside. You can take a look at these fires, and when I am done with these brief opening remarks, I am going to lay down an amendment which deals with helping people in terms of the quality of the air. I wanted to show that.

I want to also share with my colleagues that nine of us, back in April,

sent a letter to the President. I think this is extremely important. This letter was signed by Republicans and Democrats alike—two Senators and Congressmen DREIER, HUNTER, BACA, CALVERT, CUNNINGHAM, ISSA, FILNER, DAVIS, BONO, and LEWIS—equal numbers, approximately, of Republicans and Democrats.

This is what we asked the President for in April:

We are writing you today to encourage your swift approval of California Governor Gray Davis' request of a Presidential emergency declaration for Riverside, San Bernardino and San Diego counties relative to the high threat of forest fire in these regions.

Due to drought conditions and infestation by the bark beetle, our national forests have been met with an unprecedented danger as the bark beetle has attacked over 415,000 acres of trees in these three counties. Because of the unique urbanization in and around forests, this infestation has created a tinder box of such magnitude that the loss of life and resources would be incomprehensible should fire break out.

My friends, we said—nine of us—we could have fires like this. We said:

Most of the affected trees are on or adjacent to federal lands, making this crisis well beyond the ability of state and local authorities to manage. Therefore, it is critical that the federal government help provide financial assistance for infested tree removal from public and private lands, as well as assist with other mitigation measures. Now that the State of California has requested a federal emergency disaster declaration, your help at this juncture remains critical and would make a positive impact in these areas of Southern California.

We conclude our letter:

Mr. President, we appreciate the various burdens being placed upon you in these challenging days. However, we urge you to consider this matter as expeditiously as possible since these areas are in need of immediate federal assistance.

In a bipartisan way, nine of us asked the President to declare an emergency, and he did not do it. We did get some small funding. It helped a little bit. But we did not get the help we needed. We begged for it. I guess if we had a crystal ball, maybe things would have been better.

We all were asking for buffers around our communities. I think the importance of this legislation before us is it is our opportunity to direct funding, adequate funding, to make sure these buffers are created and the fire damage is diminished greatly.

I myself want to make sure this bill is a Healthy Forests bill and is not something else, a "cut down the forests" bill. I will be supporting many amendments to make sure this bill is the best it can be. I do not know the fate of those amendments, but we will be going on the record very strongly.

AMENDMENT NO. 2025

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2025:

At the appropriate place, insert the following:

**TITLE . FIREFIGHTERS MEDICAL MONITORING ACT**

**SEC. 1. SHORT TITLE.**

This Title shall be referred to as the "Firefighters Medical Monitoring Act of 2003".

**SECTION 2. MONITORING OF FIREFIGHTERS IN DISASTER AREAS.**

(a) IN GENERAL.—The National Institute for Occupational Safety and Health shall monitor the long-term medical health of those firefighters who fought fires in any area declared a disaster area by the Federal Government.

(b) HEALTH MONITORING.—The long-term health monitoring referred to in subsection (a) shall include, but not be limited to, pulmonary illness, neurological damage, and cardiovascular damage, and shall utilize the medical expertise in the local areas affected.

(c) AUTHORIZATION.—To carry out this Title, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2004 through 2008.

Mrs. BOXER. Mr. President, I thank very much the clerk for reading the amendment. It is a very straightforward amendment. It basically recognizes the fact that our firefighters are our heroes. We certainly learned that. Every American learned that after 9/11. We certainly learned that.

Their health has been affected and impacted. We learned we need to do more to monitor their health. Right now, we have 12,000 brave firefighters frantically working with the California Department of Forestry, the U.S. Forest Service, the California Highway Patrol, the Red Cross, and FEMA to contain these fires in terrible conditions.

Firefighters are not only from California, but they are from Nevada and Arizona. Other help is on the way from other States.

I want to show you a photo of some of the conditions these firefighters are working in at this point.

This is the Simi Valley, where you can see the firefighters, how strong they are, and yet how they look so small in front of this unbelievable blaze they are trying to contain.

I will show you another picture, another view.

This is in San Diego. You can see the incredible black, deadly smoke here. That is filled with toxins and is right over the hill from where they are standing.

Many of these firefighters are living in fire camps, spending 24 hours a day in proximity to the smoke from the fires. We know smoke from these fires—because it is coming from homes, and there are cars and businesses—contains heavy concentrations of carcinogens and other toxins. The smoke contains fine particulates, carbon monoxide, sulfur, formaldehyde, mercury, and heavy metals and benzene. We also know the accumulation of carbon dioxide can lead to progressive heart problems, to brain dysfunction, and may ultimately lead to coma and death.

These are the heroes. These are the heroes. I would hope we would vote 100 to nothing in favor of this amendment.

I can't imagine an argument against it. Numerous studies have shown that the higher the particulate matter, the greater the number of emergency room visits and premature deaths. Why do I put it on this bill? Because the purpose of this bill is to reduce the likelihood we will have these kinds of fires. But if we do, we have to recognize it.

By the way, even with the bill, we may well have fires in the future. We know health monitoring can identify adverse long-term health consequences caused by prolonged exposure to smoke, leading to early detection and better treatment. Those who are the most in danger are those who are exposed the most; that is, these brave firefighters who are working around the clock to contain the fires.

My amendment, again, is quite simple. It directs the National Institute for Occupational Safety and Health to work with the medical expertise in local areas to monitor the long-term health effects on firefighters who fight fires in disaster areas.

Mr. WYDEN. Will the Senator yield?

Mrs. BOXER. I am happy to yield.

Mr. WYDEN. I think what the Senator is doing is very constructive. On the forestry subcommittee, we have heard of a myriad of health concerns which seem to me, as much as anything you are addressing, a first responder issue. These are first responders who are working in a very significant area where there are health concerns—in the forestry area. It is important from a forestry standpoint and from a first responder standpoint. I am very hopeful—I see the chairman of the full committee in the Chamber as well—that we can work this out. Given the crisis right now in your State, I want to see this adopted.

Mrs. BOXER. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I think this amendment is a constructive addition to the bill. I am prepared to recommend that the Senate approve it.

Mrs. BOXER. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

Mr. COCHRAN. Mr. President, what is the regular order—a vote on the amendment?

The PRESIDING OFFICER. The regular order is a vote on the amendment, unless the pending amendment is set aside.

Mrs. BOXER. If the Senator will yield, I understood that you—and maybe I was incorrect—and Senator REID had agreed we would vote for both amendments at 5:15. I believe that was the order.

Mr. COCHRAN. If that is the order, that is fine with me. I just assumed we

were taking amendments as they were offered and disposing of them. I was not aware there was another amendment pending besides the Boxer amendment that had just been offered.

The PRESIDING OFFICER. There was no request for unanimous consent and thus no order in place.

Mrs. BOXER. Mr. President, whatever Senator COCHRAN would like to do is fine. I need about 3 minutes on my second amendment, and then I will be done. The hope was, perhaps to help move it along, we would vote on each of these back to back at a time certain that Senator COCHRAN chooses.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Without objection, it is so ordered.

#### AMENDMENT NO. 2026

Mrs. BOXER. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2026.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

#### TITLE . DISASTER AIR QUALITY MONITORING ACT

##### SECTION. 1. SHORT TITLE.

This Title shall be referred to as the "Disaster Air Quality Monitoring Act of 2003".

##### SEC. 2. MONITORING OF AIR QUALITY IN DISASTER AREAS.

(1) IN GENERAL.—No later than six (6) months after the enactment of this legislation, the Environmental Protection Agency shall provide each of its regional offices a mobile air pollution monitoring network to monitor the emissions of hazardous air pollutants in areas declared a disaster as referred to in subsection (b), and publish such information on a daily basis on its web site and in other forums, until such time as the Environmental Protection Agency has determined that the danger has subsided.

(b) The areas referred to in subsection (a) are those areas declared a disaster area by the Federal Government.

(c) The monitoring referred to in subsection (a) shall include the continuous and spontaneous monitoring of hazardous air pollutants, as defined in the Public Law 95-95 section 112(b).

(d) AUTHORIZATION.—To carry out this Title, there are authorized to be appropriated \$8,000,000.

Mrs. BOXER. Mr. President, this goes to the quality of the air. We have learned so much after what happened on 9/11. When we have this type of a fire, if we could look at this smoke here—I have another picture to show. Look at this black smoke just headed right toward these homes. We know there are pollutants we don't really monitor on a daily basis that are getting into people's lungs. I will mention some of these: Benzene, toluene, formaldehyde, asbestos, ethylene, glycol. Those are just a few.

The effects of these could be devastating: Premature death, cardiovascular illness, neurological disorder, respiratory problems, and cancer. One atmospheric scientist described it in the L.A. Times this way:

When they burn, these homes and businesses are mini toxic waste dumps.

This is the quality of the air we are seeing here. In San Diego, every single school has been closed because it is too dangerous for the children to go outside their homes. They are telling the elderly to stay inside with their windows and doors closed. We know the elderly and the children are the most vulnerable to the effects of pollution.

I believe we must ensure that the public knows which pollutants they are being exposed to. Today they would not know. My amendment will solve that problem. My amendment will require the EPA to provide each of its regional offices a mobile air pollution monitoring network to go into these areas in the event of a catastrophe and monitor toxic emissions on a continuous and spontaneous basis. The amendment will require this to be done within 6 months. We should begin doing it immediately. We authorized the funding—it isn't much, \$8 million—to carry this out.

In short, my amendment assures that we will have the ability to monitor emissions of these hazardous air pollutants in the event of a disaster and give the public the information it needs because if they have a child, a sick grandma, someone who has cancer or heart disease, they need to know to keep them in.

I ask for the yeas and nays on my amendment and yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The yeas and nays are ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that the firefighter amendment No. 2025 be voted on first.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. What is the regular order?

#### VOTE ON AMENDMENT NO. 2025

The PRESIDING OFFICER. The regular order is voting on the two pending amendments.

The question is on agreeing to amendment No. 2025. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. ED-

WARDS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 417 Leg.]

#### YEAS—94

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham (FL)	Pryor
Breaux	Graham (SC)	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Kohl
Collins	Kohl	Specter
Conrad	Kyl	Stabenow
Cornyn	Landrieu	Stevens
Corzine	Lautenberg	Sununu
Craig	Leahy	Talent
Crapo	Levin	Thomas
Daschle	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeWine	Lott	Wyden
Dodd	Lugar	

#### NAYS—3

Allard	Burns	Enzi
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#### NOT VOTING—3

Edwards	Kennedy	Kerry
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The amendment (No. 2025) was agreed to.

Mr. COCHRAN. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### VOTE ON AMENDMENT NO. 2026

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 2026, on which the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Texas (Mr. CORNYN) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?



The result was announced—yeas 78, nays 17, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—78

Akaka	Dodd	McCain
Alexander	Dole	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Graham (FL)	Pryor
Boxer	Grassley	Reed
Breaux	Harkin	Reid
Byrd	Hatch	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Hutchison	Sarbanes
Carper	Inouye	Schumer
Chafee	Jeffords	Sessions
Chambliss	Johnson	Shelby
Clinton	Kohl	Smith
Cochran	Landrieu	Snowe
Coleman	Lautenberg	Specter
Collins	Leahy	Stabenow
Conrad	Levin	Stevens
Corzine	Lieberman	Talent
Daschle	Lincoln	Voinovich
Dayton	Lott	Warner
DeWine	Lugar	Wyden

NAYS—17

Allard	Enzi	Kyl
Brownback	Frist	Nickles
Bunning	Graham (SC)	Roberts
Craig	Gregg	Sununu
Crapo	Hagel	Thomas
Domenici	Inhofe	

NOT VOTING—5

Burns	Edwards	Kerry
Cornyn	Kennedy	

The amendment (No. 2026) was agreed to.

Mr. COCHRAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I ask unanimous consent that a copy of a letter addressed to the two leaders from a number of sports organizations and conservation organizations regarding the adoption of the compromise amendment to the Healthy Forests Restoration Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN SPORTFISHING ASSOCIATION; BOONE AND CROCKETT CLUB; CONGRESSIONAL SPORTSMEN'S FOUNDATION; DUCKS UNLIMITED; FOUNDATION FOR NORTH AMERICAN WILD SHEEP; INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES; MISSISSIPPI RIVER TRUST; NATIONAL RIFLE ASSOCIATION; NATIONAL WILD TURKEY FEDERATION; NEW ENGLAND FORESTRY FOUNDATION; ROCKY MOUNTAIN ELK FOUNDATION; RUFFED GROUSE SOCIETY; SAFARI CLUB INTERNATIONAL; TEXAS WILDLIFE ASSOCIATION; THE CARBON FUND; U.S. SPORTSMEN'S ALLIANCE; AND WILDLIFE MANAGEMENT INSTITUTE.

October 29, 2003.

Hon. BILL FRIST,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. TOM DASCHLE,  
Minority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATOR FRIST AND SENATOR DASCHLE: The organizations listed above represent hunters, anglers, natural resource professionals and others that share a strong interest in traditional conservation values and America's fish and wildlife resources. We appreciate Senate deliberations to date on legislation to enhance the health of our nation's forests and associated fish and wildlife resources. We support the bipartisan compromise amendment to the Healthy Forests Restoration Act (H.R. 1904).

A lack of active forest management has contributed significantly to unhealthy conditions on many of our nation's public and private forestlands. The unnaturally high risk of catastrophic wildfires and large-scale insect and disease outbreaks place rural communities at risk and seriously threaten watersheds and fish and wildlife habitats.

Again, we urge the Senate to pass the compromise amendment to H.R. 1904. Another Congress must not be allowed to adjourn without action on proposals to facilitate forest health restoration.

Thank you for your time.

Mr. COCHRAN. Madam President, this letter, and many others like it, indicates overwhelming support around the country for the compromise we adopted today.

We made good progress in dealing with the bill. Tomorrow we will have another opportunity to consider amendments. I ask all Senators who have amendments to offer to this bill to please let us know about the amendments. Give us copies tonight so we can look at them and be prepared to act expeditiously on the amendments so we can finish this bill tomorrow.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, very briefly, I support Chairman COCHRAN in his request. We have been working on this legislation, in effect, for more than 4 years. It is now particularly timely, obviously, because of the events in California.

Many of the amendments, at least those we have been told about, are coming from my side of the aisle. I ask colleagues—I know Senators have strong feelings on this—if they could present them to the staffs tonight—Senator COCHRAN's staff, Senator HARKIN's staff. Myself and others are avail-

able to work through the evening with Senators who have amendments because we very much would like to finish it tonight.

I urge my colleagues on both sides to heed what the chairman has said: If possible, get it to us tonight.

I thank you and yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. FRIST. Madam President, I ask unanimous consent that following my remarks, and another unanimous consent request by my colleague from Kentucky, that we then proceed to the consideration of S. 139, as provided under the previous order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is my understanding Senator FRIST and Senator DASCHLE have agreed there would be 3 hours of debate on that matter tonight and 2 hours tomorrow, so I would ask the leader to modify his request accordingly.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, first of all, let me make a couple comments about tonight's and tomorrow's schedule to make it clear.

First of all, the understanding is 3 hours tonight on the climate change bill and then 2 hours in the morning. To put everything in perspective, because we are dealing with about four different issues now on the floor of the Senate—it has worked very well, and I appreciate the consideration and cooperation of everybody, because to some it might look confusing in terms of the order and the sequencing of what we are doing. We made huge progress today on the Healthy Forests legislation we have been working on now for the last 6 hours. The managers have done a superb job. We have traction. We have had a number of amendments, and we will continue on that later tomorrow.

We will have no more votes tonight. We will move, as I just mentioned, to the climate change bill, with the 3 hours tonight, 2 hours tomorrow.

Tomorrow we will have debate and then an early cloture vote on the Pickering nomination at about 10 o'clock tomorrow morning.

We will then resume the climate change bill for 2 hours.

Then we will return to the Healthy Forests legislation. Once we return to the Healthy Forests bill, I expect we will be able to finish that bill.

Following that—Members can refer to the unanimous consent request by my colleague—the plan will be to return at that point in time to foreign operations that we will be able to complete at that juncture. That is the general layout of tonight and tomorrow.